

NORTH CAROLINA GENERAL ASSEMBLY
1967 SESSION

CHAPTER 487
HOUSE BILL 871

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

The General Assembly of North Carolina do enact:

Section 1. The Charter of the City of Lenoir is hereby revised and consolidated to read as follows:

THE CHARTER OF THE CITY OF LENOIR

Article I. Incorporation and Corporate Powers.

Section 1.1. Incorporation and General Powers. The City of Lenoir shall continue to be a body politic and corporate under the name of the "City of Lenoir", and shall continue to be vested with all property and rights which now belong to the City; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

Section 1.2. Exercise of Powers. All powers, functions, rights, privileges, and immunities of the City, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

Section 1.3. 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 herein or implied hereby, or those appropriate to the exercise of such powers, the City of Lenoir shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina, and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

Article II. Corporate Boundaries.

Section 2.1. Existing Corporate Boundaries. The corporate boundaries of the City of Lenoir shall be as set out on a map entitled "Map of the City of Lenoir, North Carolina"; which map shall be kept up to date with a complete description of the metes

and bounds of the City and shall be available for inspection by the public in the office of the City Manager.

Section 2.2. Extension of Corporate Boundaries. All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

Article III. Mayor and City Councilmen.

Section 3.1. Plan Generally. The method of government provided for in this Charter for the City of Lenoir shall be known as Council-Manager.

Section 3.2. Governing Body. The government of the City and the general management and control of all its affairs shall be vested in a city council, which shall be elected and shall exercise its powers in the manner herein and in Article 21 of the General Statutes of North Carolina set forth, except that the city manager shall have the authority hereinafter specified.

Section 3.3. Number and Election of City Council. The city council shall consist of seven members, who shall be elected at large by and from the qualified voters of the City for a term of two years and until their successors are elected and qualified, except that the members of city council elected in May, 1969, shall serve terms as follows:

(a) Those four members receiving the largest number of votes shall serve terms of four years.

(b) The remaining three elected members shall serve terms of two years.

Section 3.4. Power and Organization of City Council. All the legislative powers of the City shall be vested in the city council. The city council elected as set out in Section 3.3 shall meet at ten o'clock on July first next following their election, and the members of the city council whose terms of office then begin shall severally make oath before the city clerk or justice of the peace to perform faithfully the duties of their respective offices. The city council shall thereupon be organized and shall choose one of its members to be mayor pro tempore, who shall hold his office during the pleasure of the city council. Such organization shall take place notwithstanding the absence, death, refusal to serve; provided that at least five of the persons entitled to be members of the city council are present and make oath as provided. Any member entitled to make the oath, who was not present at the time fixed therefor, may make oath at any time thereafter.

Section 3.5. Meetings Regulated. The city council shall fix suitable times for its regular meetings. The mayor, the mayor pro tempore, of the city council, or any four members thereof, may at any time call a special meeting by causing a written notice, stating the time of holding such meeting and signed by a person or persons calling the same, to be delivered in hand to each member or left at his usual dwelling place at least six hours before the time of such meeting. Meetings of the city council may also be held at any time when all the members of the council are present and consent thereto.

Section 3.6. Quorum and Conduct of Business. A majority of the members of the city council shall constitute a quorum. Its meetings shall be public, and the mayor, who shall be the official head of the City, shall, if present, preside; but shall have no vote except in case of a tie. He shall have no power of veto. In the absence of the mayor, the mayor pro tempore of the city council shall preside, and in the absence of both, a

chairman pro tempore shall be chosen. The city clerk shall be ex officio clerk of the city council and shall keep records of its proceedings; but in case of his temporary absence, or in case of a vacancy in the office, the city council may elect by ballot a temporary clerk, who shall be sworn to the faithful discharge of his duties, and may act as clerk of the city council until a city clerk is chosen and qualified. All final votes of the city council involving the expenditure of fifty dollars (\$50.00) or over shall be by yeas and nays, and shall be entered on the records. On request of one member, the vote shall be by yeas and nays, and shall be entered upon the records. Four affirmative votes at least shall be necessary for the passage of any order, ordinance, resolution, or vote.

Section 3.7. Vacancies in Council. Vacancies in the city council shall be filled by the council for the remainder of the unexpired terms.

Section 3.8. Election of Mayor. The mayor shall be elected at large at the regular municipal election held in accordance with Section 4.19 of this Charter, and shall hold office for a two-year term. In case of a vacancy in the office of mayor, the remaining members of the council shall choose from their own number his successor for the unexpired term.

Section 3.9. Salaries of Mayor and Council. The mayor shall receive for his services such salary as the city council shall by ordinance determine, and he shall receive no other compensation from the City. His salary shall not be increased or diminished during the term for which he is elected. The council may, by a vote of not less than four members, taken by call of the yeas and nays, establish a salary for its members. Such salary may be reduced, but no increase therein shall be made to take effect during the year in which the increase is voted.

Section 3.10. Election of Treasurer; Salary. The council may elect from its membership a treasurer, and in addition to the salary allowed as a member of the council, such treasurer may be paid for his services as treasurer such amount as council shall set.

Section 3.11. City Manager Appointed. The city council shall appoint a city manager, who shall be the administrative head of the city government, and shall be responsible for the administration of all departments. He shall be appointed with regard to merit only, and he need not be a resident of the City when appointed. He shall hold office during the pleasure of the city council, and shall receive such compensation as it shall fix by ordinance.

Section 3.12. Powers and Duties of City Manager. The city manager shall: (1) Be the administrative head of the city government; (2) see that within the City the laws of the State and the ordinances, resolutions, and regulations of the council are faithfully executed; (3) attend all meetings of the council, and recommend for adoption such measures as he shall deem expedient; (4) make reports to the council from time to time upon the affairs of the City, keep the council fully advised of the City's financial condition and its future financial needs; (5) appoint and remove all heads of departments, superintendents, and other employees of the City.

Section 3.13. Appointment and Removal of Officers. Such city officers and employees as the council shall determine are necessary for the proper administration of the City shall be appointed by the city manager, and any such officer or employee may

be removed by him; but the city manager shall report every such appointment and removal to the council at the next meeting thereof following any such appointment or removal.

Section 3.14. Control of Officers and Employees. The officers and employees of the City shall perform such duties as may be required of them by the city manager, under general regulations of the city council.

Article IV. Elections.

Section 4.1. Primary Elections – When Held. There shall be held on the Friday before the first Monday in May, 1935, and biennially thereafter, a primary election for the City of Lenoir, for the nomination of candidates for mayor and city councilmen to vote for at the general election provided for in the Charter of the City of Lenoir.

Section 4.2. Same – Nominees. The two candidates for mayor receiving the largest number of votes cast shall be declared the nominees of the primary for mayor, and the 14 candidates for councilmen receiving the largest number of votes cast shall be declared the nominees of the primary for councilmen, and their names shall be placed on the official ballots for the general municipal election to be held on the first Monday in May of each odd-numbered year.

Section 4.3. Same – Conditions Under Which Primaries are not Held. When not more than two candidates file notice of their candidacy for the office of mayor and not more than 14 candidates file notice of their candidacy for councilmen, the persons so filing shall be declared the nominees, and no primary election shall be held.

Section 4.4. Same – Conduct. Primary elections shall be conducted by the board of elections, which shall consist of the mayor, the city councilmen and the city manager. The mayor shall be ex officio chairman and the city manager shall be ex officio secretary of the board of elections, and five members shall constitute a quorum.

Section 4.5. Same – Registrars and Judges of Election. The board of elections shall select and appoint one or more persons to act as registrar or registrars of voters, and two judges of election for each polling place, who before entering upon the discharge of their duties shall take an oath to conduct the primary election faithfully and impartially according to the laws of the State of North Carolina. The board of elections shall issue a notice, and have it served by a police officer, advising each registrar and judge of his appointment to act as such official at the primary election on the date specified in the notice. If any vacancy shall occur in the office of registrar or judge, the same shall be filled by the board of elections.

Section 4.6. Same – Duties of Judges of Election. The judges of election shall open the polls and superintend the same until the close of the primary election; they shall keep poll books in which shall be entered the name of each person who shall vote, and at the close of the election they shall certify the same under their proper signatures and deposit the same with the board of elections.

Section 4.7. Same – Registration of Voters. It shall be the duty of the board of elections to cause a registration to be made of all the qualified voters residing in the City of Lenoir under the rules and regulations prescribed for the registration of voters for general elections. The board of elections may in its discretion order a new registration

of voters; but unless such new registration shall be ordered, the primary shall be held under the existing registration, with such revision as is hereinafter provided. In the event a new registration is ordered, the board of elections shall give 10 day's notice thereof by advertisement in some newspaper in the City of Lenoir.

Section 4.8. Same – To be Furnished Registrars. Each registrar shall be furnished with a registration book, and it shall be his duty to revise such registration book in such manner that such book shall show an accurate list of the electors previously registered and still residing within the City of Lenoir without requiring such electors to be registered anew.

Section 4.9. Same – Opening and Closing of Registration Books. The registrar or registrars shall open the registration books on the second Monday in April before every primary election and shall register all qualified voters who shall apply. The registration books shall close on the Saturday immediately preceding the primary election, and shall be opened for challenge of any registered voter on the Monday immediately preceding any primary election between the hours of 10:00 A.M. and 12:00 noon; provided that on election years when new registrations are ordered the registration books shall be opened on the first Monday in April and shall remain open for three weeks for the registration of voters.

Section 4.10. Same – Hours During Which Polls are Open. The polls shall be open on the day of each primary election between the hours of 7:00 A.M., and 6:00 P.M., or as shall be ordered by the board of elections, and each person whose name may be registered shall be entitled to vote and no other.

Section 4.11. Same – Qualifications of Voters. All electors qualified to vote for State officers who shall have resided in the City for 30 days immediately preceding such primary election, and not otherwise, shall have the right to vote for candidates for mayor and city councilmen.

Section 4.12. Same – Ballots. All ballots to be used in the primary election shall be prepared by or under the supervision of the board of elections, and no ballot shall be counted other than ballots prepared or furnished by the board of elections.

Section 4.13. Same – Counting Votes, Etc. When the primary election shall be furnished, the registrar and the judges shall open the ballot boxes, count the ballots and certify the result of the vote to the board of elections. The registration books, the poll books and the ballot boxes containing the ballots cast in the primary election shall be deposited with the secretary of the board of elections as soon as the ballots have been counted.

Section 4.14. Same – Board of Canvassers. The board of elections shall constitute the board of canvassers and shall meet the next day after the primary election at 12:00 noon at the mayor's office, and canvass and determine the result of the election. The board of canvassers shall have the power and authority to pass upon judicially all the votes cast in the primary election, and shall determine and declare the result of, the same.

Section 4.15. Same – Placing Names of Nominees on Ballots for General Elections. Only names of the candidates nominated in the primary elections shall be certified and placed upon the ballots provided for the general municipal elections.

Section 4.16. Same – Filing Notice of Candidacy. Only such candidates as file notice of their candidacy with the chairman or secretary of the municipal board of elections on or before 5:00 P.M. on the third Friday immediately preceding the day of any primary election shall be placed on the official ballot for the primary election; and no candidate shall file or qualify for the primary election until he has deposited with the chairman or secretary the fee that may be required by the board of elections for candidates for office for which he offers himself.

Section 4.17. Same – Fees. The board of elections shall, at least 30 days before each primary election, designate the amount of money each candidate may be required to pay as a filing fee for the particular office for which he desires to become a candidate, which fee shall be paid by such candidate at the time he files his candidacy with the board.

Section 4.18. Compensation of Election Officials; Disposition of Moneys Received from Candidates Filing Fees. The chairman and secretary of the board of elections and the registrars and judges in such primary election shall receive such compensation as the board of city councilmen of the City of Lenoir may provide, and all money received by the board of elections from candidates for entrance fees shall be applied to the payment of the primary election expenses. They shall certify to the city councilmen a statement of such expenses and any additional amount necessary to defray the expenses of such elections shall be paid by the City of Lenoir.

Section 4.19. Regular Municipal Elections. The regular municipal elections shall be held on Tuesday after the first Monday in May of each odd-numbered year. In each election year, there shall be elected by the qualified voters of the City voting at large a mayor to serve for a term of two years and such number of city councilmen as may be required by Section 3.3 of this Charter, to serve for terms of two years, except for the city councilmen elected under Section 3.3 (a) of this Charter, or until their successors are elected and qualify.

Section 4.20. Voting. Each voter shall be entitled to vote for one candidate for mayor and for such number of candidates for city councilmen as may be required by Section 4.19 of this Charter. The candidate for mayor who receives the largest number of votes shall be declared elected, and the candidates for city councilmen who receive the largest number of votes for city councilmen shall be declared elected.

Article V. Administrative Officers and Employees.

Section 5.1. City Clerk. The city manager may appoint a city clerk to keep a journal of the proceedings of the city councilmen and to maintain in a safe place all records and documents pertaining to the affairs of the City, and to perform such other duties as may be required by laws or as the manager may direct.

Section 5.2. City Tax Collector. The city manager may appoint a tax collector to collect all taxes, licenses, fees and other moneys belonging to the City, subject to the provisions of this Charter and the ordinances of the city, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

Section 5.3. City Accountant. The city manager may appoint a city accountant to perform the duties of the accountant as required by the Municipal Fiscal Control Act.

Section 5.4. Consolidation of Functions. The city manager may, in his discretion, consolidate any two or more of the offices of city clerk, city tax collector, and city accountant, or may assign the functions of any one or more of these offices to the holder or holders of any other of these offices. The city manager may also, in his discretion, himself perform all or any part of the functions of any of the named offices, in lieu of appointing other persons to perform the same.

Article VI. Purchases and Contracts; Sale of Property.

Section 6.1. Purchases and Contracts. All purchases of apparatus, supplies, materials and equipment and all contracts for construction or repair work shall be made in accordance with applicable provisions of the General Statutes.

Section 6.2. Disposal of Surplus Personal Property. The city councilmen shall have power, in addition to the power granted by G. S. 160-59, to sell or to direct any of its officers or employees to sell any personal property, which the board has declared to be surplus property, in the following manner:

(a) without bids or advertisement, at private sale, if the property has a market value of five hundred dollars (\$500.00) or less;

(b) to the highest bidder upon receipt of informal written bids, with only such advertisement as the board may direct, if the property has a market value of more than five hundred dollars (\$500.00) but no more than two thousand dollars (\$2,000.00) provided, that all such bids received shall be recorded on the minutes of the board;

(c) to the highest bidder upon receipt of sealed bids after one week's public notice, if the property has a market value in excess of two thousand dollars (\$2,000.00); provided, that all such sealed bid proposals shall be opened in public and recorded on the minutes of the board.

Section 6.3. Power to Convey Real Property, Etc. The City shall have the power at all times to sell or exchange any real property belonging to the City after having advertised the same once a week for four consecutive weeks in a newspaper published in the county, following the procedure prescribed by the general laws of the State for the foreclosure of mortgages and deed of trust under the power of sale contained therein; provided, that before any bid shall be deemed accepted or any sale made, or title passed by virtue of such sale, such sale shall be confirmed by the city council and the council may in its discretion, refuse confirmation, and when so authorized, a deed for such real estate may be executed by the mayor and attested by the city clerk, with the corporate seal of the City attached; provided, however, this shall not apply to plots in the cemetery except as to the manner of execution of the deed. In the sale of real estate the City is authorized to execute deeds in the usual form and containing full covenants of warranty.

Article VII. Police.

Section 7.1. Jurisdiction Extended.

(a) The jurisdiction of the police force is hereby extended to include all territory outside and within one mile of the corporate limits, and all members of the

police force shall have within such territory all rights, power and authority as they have within the corporate limits.

(b) The jurisdiction of the police force is hereby extended to include all city-owned property and facilities whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they have within the corporate limits.

Section 7.2. Effect of Ordinances on City Property. All applicable ordinances of the City shall have full force and effect upon and within all city-owned property and facilities, whether located within or outside the corporate limits.

Article VIII. Subdivision Control.

Section 8.1. Platting Authority. The city councilmen are hereby authorized to enact an ordinance regulating the platting and recording of any subdivision of land as defined by this Article lying within the City or within one mile in any direction of the corporate limits and not located in any other municipality. In the event of land lying outside the City within one mile of the corporate limits and lying also within the subdivision control jurisdiction of another municipality, the jurisdiction of the City shall terminate at a boundary line equidistant from the corporate limits of the City and the corporate limits of the other municipality.

Section 8.2. Adoption of Ordinance; Procedure. Before the board shall adopt a subdivision control ordinance or any amendment thereto, it shall hold a public hearing, notice of which shall be given once a week for two successive calendar weeks in a newspaper published within the City, or if no newspaper is so published, by posting such notice at four public places in the City. The notice shall be published the first time, or posted, not less than 15 nor more than 25 days prior to the date fixed for the hearing.

Section 8.3. Approval, Filing and Recordation of Plats. If the board adopts an ordinance regulating the subdivision of land, no subdivision plat shall be filed or recorded until it shall have been submitted to and approved by the board and such approval entered in writing on the plat by the city clerk; provided, that a copy of such ordinance shall be filed with the Register of Deeds of Caldwell County. The register of deeds upon receipt of such ordinance shall not thereafter file or record a plat of a subdivision of land located within the territorial jurisdiction of the City as herein defined without the approval of such plat by the board. The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the territorial jurisdiction of the City as herein defined. The Clerk of Superior Court of Caldwell County shall not order or direct the recording of a plat where such recording would be in conflict with this Section.

Section 8.4. Subdivision Regulations. Prior to exercising the powers granted by this Article, the board shall by ordinance adopted pursuant to this Article adopt regulations governing the subdivision of land within its platting jurisdiction as defined in Section 8.1 of this Article. The ordinance shall require that at least a preliminary plan of every proposed subdivision shall be submitted for study, recommendation and tentative approval to the board or to the planning board or commission.

The ordinance may provide for the orderly development of the City and its environs; for the coordination of streets within proposed subdivisions with existing or planned streets or with other public facilities; for the dedication or reservations of rights of way or easements for street and utility purposes; and for the distribution of population and traffic which shall avoid congestion and overcrowding, and which shall create conditions essential to public health, safety, and general welfare.

The ordinance may include requirements for the final plat to show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformance with good surveying practice.

The ordinance may provide for the more orderly development of subdivisions by requiring the construction of community service facilities, including water lines; sewer lines; street paving, curbing and guttering; and street drainage facilities in accordance with policies and standards established by the board and, to assure compliance with such requirements, the ordinance may require the posting of bond or other such method as shall offer guarantee of compliance.

Section 8.5. Effect of Plat Approval on Status of Dedications. The approval of a plat by the board shall not be deemed to constitute or effect the acceptance by the City or the public of the dedication of any street or other ground, public utility line, or other public facility shown upon the plat.

Section 8.6. Penalties for Transferring Lots in Unapproved Subdivisions. If the board adopts an ordinance regulating the subdivision of land as authorized by this Article, any person, who, being the owner or agent of the owner of any land located within the platting jurisdiction of the City as defined by Section 8.1 of this Article, thereafter transfers or sells such land by reference to a plat showing a subdivision of such land before such plat has been approved by the board and recorded in the register of deeds' office, shall be guilty of a misdemeanor, and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The City, through the city attorney or other official designated by the board, may enjoin such transfer or sale by action for injunction.

Section 8.7. Definitions. For purposes of this Article, a "subdivision" shall include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition nor be subject to the regulations authorized by this Article:

(a) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the City as shown in its subdivision regulations;

(b) The division of land into parcels greater than five acres where no street right of way dedication is involved;

(c) The public acquisition by purchase of strips of land for the widening or opening of streets;

(d) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right of way dedication is involved and where the resultant lots are equal to or exceed the standards of the City, as shown in its subdivision regulations.

Sec. 2. The purpose of this Act is to revise the Charter of the City of Lenoir and to consolidate herein certain Acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior Acts which are consolidated into this Act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. No provision of this Act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this Act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this Act.

Sec. 4. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any Act repealing such law, or

(b) Any provision of this Act that disclaims an intention to repeal or effect enumerated or designated laws.

Sec. 5. (a) All existing ordinances and resolutions of the City of Lenoir, and all existing rules or regulations of departments or agencies of the City of Lenoir, not inconsistent with the provisions of this Act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this Act by or against the City of Lenoir or any of its departments or agencies shall be abated or otherwise affected by the adoption of this Act.

Sec. 6. Severability. If any provision of this Act or the application thereof to any person or circumstances 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. 7. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Sec. 8. This Act shall be in full force and effect from and after the date of its ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1967.