

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1366

Short Title: Washington Charter Revision.

(Local)

Sponsors: Representative Edwards.

Referred to: Local and Regional Government I.

May 28, 1996

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

"THE CHARTER OF THE CITY OF WASHINGTON.

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

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

"Sec. 1.2. **Powers.** The City shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the City of Washington 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 Boundaries.** The corporate boundaries shall be 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 in accordance with law. An official map of the City,

1 showing the current municipal boundaries, shall be maintained permanently in the office
2 of the City Clerk and shall be available for public inspection. Upon alteration of the
3 corporate limits pursuant to law, the appropriate changes to the official map shall be
4 made and copies shall be filed in the office of the Secretary of State, the Beaufort County
5 Register of Deeds, and the appropriate board of elections.

6 **"ARTICLE II. GOVERNING BODY.**

7 "Sec. 2.1. **City Governing Body; Composition.** The Mayor and the City Council
8 shall be the governing body of the City.

9 "Sec. 2.2. **City Council; Composition; Terms of Office.** The Council shall be
10 composed of five members to be elected by all the qualified voters of the City for terms
11 of two years, or until their successors are elected and qualified.

12 "Sec. 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the
13 qualified voters of the City for a term of two years or until his or her successor is elected
14 and qualified. The Mayor shall be the official head of the City government and preside at
15 meetings of the Council, shall have the right to vote only when there is an equal division
16 on any question or matter before the Council, and shall exercise the powers and duties
17 conferred by law or as directed by the Council.

18 "Sec. 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as
19 Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or
20 disability, in accordance with general law. The Mayor Pro Tempore shall serve in such
21 capacity until the organizational meeting following the next regular municipal election,
22 despite the contrary provisions of G.S. 160A-70.

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

26 "Sec. 2.6. **Quorum; Voting Requirements.** Notwithstanding the contrary
27 provisions of G.S. 160A-74, a majority of the members elected to the Council shall
28 constitute a quorum for the conduct of business. Official actions of the Council and all
29 votes shall be taken in accordance with the applicable provisions of general law,
30 particularly G.S. 160A-75.

31 "Sec. 2.7. **Qualifications for Office; Compensation; Vacancies.** The qualifications
32 and compensation of the Mayor and Council members shall be in accordance with
33 general law. Vacancies shall be filled as provided in G.S. 160A-63.

34 "Sec. 2.8. **Prohibition on Holding Other City Positions.** Neither the Mayor nor any
35 members of the Council shall hold any other office or position of trust, profit, or honor
36 under the City government.

37 **"ARTICLE III. ELECTIONS.**

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

42 "Sec. 3.2. **Election of Mayor.** A Mayor shall be elected in each regular municipal
43 election.

1 "Sec. 3.3. **Election of Council Members.** Five council members shall be elected in
2 each regular municipal election.

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

5 **"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.**

6 Sec. 4.1. **Form of Government.** The City shall operate under the council-
7 manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of
8 the General Statutes.

9 "Sec. 4.2. **City Manager; Appointment; Powers and Duties.** The Council shall
10 appoint a City Manager who shall be responsible for the administration of all departments
11 of the City government. The City Manager shall have all the powers and duties conferred
12 by general law, except as expressly limited by the provisions of this Charter, and the
13 additional powers and duties conferred by the Council, so far as authorized by general
14 law.

15 "Sec. 4.3. **Manager's Personnel Authority; Role of Elected Officials.** As chief
16 administrator, the City Manager shall have the power to appoint, suspend, and remove all
17 officers, department heads, and employees in the administrative service of the City, with
18 the exception of the City Attorney and the City Clerk, and any other official whose
19 appointment or removal is specifically vested in the Council by this Charter or by general
20 law. Neither the Council nor any of its members shall take part in the appointment or
21 removal of department heads and employees in the administrative service of the City,
22 except as provided by this Charter. Except for the purpose of inquiry, or for consultation
23 with the City Attorney, the Council and its members shall deal with the administrative
24 service solely through the City Manager, Acting Manager, or Interim Manager, and
25 neither the Council nor any of its members shall give any specific orders to any
26 subordinates of the City Manager, Acting Manager, or Interim Manager, either publicly
27 or privately.

28 "Sec. 4.4. **City Attorney.** The City Council shall appoint a City Attorney licensed to
29 practice law in North Carolina. It shall be the duty of the City Attorney to represent the
30 City, advise City officials, and perform other duties required by law or as the Council
31 may direct.

32 "Sec. 4.5. **City Clerk.** The City Council shall appoint a City Clerk to keep a journal
33 of the proceedings of the Council, to maintain official records and documents, to give
34 notice of meetings, and to perform such other duties required by law or as the Council
35 may direct.

36 "Sec. 4.6. **Finance Director.** The City Manager shall appoint a Finance Director to
37 perform the duties designated in G.S. 159-25 and such other duties as may be prescribed
38 by law or assigned by the Manager.

39 "Sec. 4.7. **Other Administrative Officers and Employees.** The Council may
40 authorize other positions to be filled by appointment by the City Manager, and may
41 organize the City government as deemed appropriate, subject to the requirements of
42 general law.

43 **"ARTICLE V. STREET IMPROVEMENTS.**

1 "Sec. 5.1. **Assessments for Street Improvements; Petition Unnecessary.** In
2 addition to any authority granted by general law, the Council may, without the necessity
3 of a petition, order street improvements and assess the costs thereof against abutting
4 property, exclusive of the costs incurred at street intersections, according to one or more
5 of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes,
6 upon the following findings of fact:

7 (1) The street improvement project does not exceed twelve hundred (1,200)
8 linear feet; and

9 (2) a. The street or part thereof is unsafe for vehicular traffic or creates a
10 safety or health hazard, and it is in the public interest to make such
11 improvement; or

12 b. It is in the public interest to connect two streets, or portions of a
13 street already improved; or

14 c. It is in the public interest to widen a street, or part thereof, which
15 is already improved; provided, that assessments for widening any
16 street or portion of a street without a petition shall be limited to
17 the cost of widening and otherwise improving such street in
18 accordance with street classification and improvement standards
19 established by the City's thoroughfare or major street plan for the
20 particular street or part thereof.

21 "Sec. 5.2. **Street Improvement Defined.** For the purposes of this Article, the term
22 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening,
23 paving, repaving, and the construction or reconstruction of curbs, gutters, and street
24 drainage facilities.

25 "Sec. 5.3. **Procedure; Effect of Assessment.** In ordering street improvements
26 without a petition and assessing the costs thereof under authority of this Article, the
27 Council shall comply with the procedures provided by Article 10 of Chapter 160A of the
28 General Statutes, except those provisions relating to petitions of property owners and the
29 sufficiency thereof. The effect of the act of levying assessments under authority of this
30 Article shall be the same as if the assessments were levied under authority of Article 10
31 of Chapter 160A of the General Statutes.

32 "ARTICLE VI. SIDEWALKS.

33 "Sec. 6.1. **Property Owner's Responsibility.** It shall be the duty of every property
34 owner in the City to keep clean and free of debris, trash, and other obstacles or
35 impediments the sidewalks abutting his or her property.

36 "Sec. 6.2. **City Cleaning or Repair; Costs Become Lien.** The City Council may by
37 ordinance establish a procedure whereby City forces may remove from any sidewalk any
38 debris, trash, ice, or snow upon failure of the abutting property owner after 10 days'
39 notice to do so. In such event, the cost of such removal shall become a lien upon the
40 abutting property equal to the lien for ad valorem taxes and may thereafter be collected
41 either by suit in the name of the City or by foreclosure of the lien in the same manner and
42 subject to the same rules, regulations, costs, and penalties as provided by law for the
43 foreclosure of the lien on real estate for ad valorem taxes.

"ARTICLE VII. REMOVAL OF MOTOR VEHICLES.

"Sec. 7.1. **Liens for Removal of Motor Vehicles.** The Council may establish charges to be made for the cost of removing abandoned motor vehicles from private property. When the City causes the removal of any such vehicle from private property pursuant to an ordinance permitting such removal, and the owner or other person having control of said property fails to pay the cost of the removal within 30 days after it becomes due, the amount of the cost of removal of the vehicle shall become a lien against the real property from which the vehicle was removed; said cost shall be placed upon the City's tax books against the property and may be collected and foreclosed in the same manner as taxes are collected and foreclosed, or by suit, as the City may determine.

"ARTICLE VIII. EXTRATERRITORIAL POWERS.

"Sec. 8.1. **Extraterritorial Jurisdiction.** The City shall have and may exercise all of the powers granted by Article 19 of Chapter 160A of the General Statutes within an extraterritorial area which it shall define. The extraterritorial area may extend up to one and one-half miles outside the corporate limits, or the distance authorized by G.S. 160A-360, whichever is greater.

"ARTICLE IX. RIVER REGULATION.

"Sec. 9.1. **No-Wake Zone During Special Events.** The no-wake speed zone established in the Pamlico River by Section 2 of Chapter 434 of the 1993 Session Laws does not apply during special events as designated by ordinance adopted by the Council or order issued by the City Manager. Any ordinance or order issued pursuant to this section shall designate the duration of the exemption and the territorial area to which the exemption applies. Any order issued by the City Manager pursuant to this section shall be recorded in the City's ordinance book.

"ARTICLE X. PURCHASING AND CONTRACTS.

"Sec. 10.1. **Conflicts of Interest.** No officer, department head, employee, or board or commission member shall make or participate in the making of any contract with the City in which he or she may be in any manner financially interested, directly or indirectly. Any such person who has such an interest in any proposed contract shall make known that interest and shall refrain from participation in the making of any such contract. The willful concealment of such a financial interest or the willful violation of this section shall constitute malfeasance in office or position, and any violator shall forfeit his office or position. Violation of this section with the knowledge express or implied of the person, firm, or corporation contracting with the City shall render the contract void.

"Sec. 10.2. **Disposal of Surplus Personal Property.** The City may dispose of personal property valued at two thousand dollars (\$2,000) or less for any one item or group of items using the procedures authorized in G.S. 160A-266(c).

"ARTICLE XI. CLAIMS AGAINST THE CITY.

"Sec. 11.1. **Settlement of Claims by City Manager.** The City Manager may settle claims against the City for (i) personal injuries or damages to property when the amount involved does not exceed the amount of the applicable insurance deductible and does not exceed the actual loss sustained, including loss of time, medical expenses, and

1 any other expenses actually incurred; and (ii) the taking of small portions of private
2 property which are needed for the rounding of corners at street intersections, when the
3 amount involved in any such settlement does not exceed two thousand five hundred
4 dollars (\$2,500) and does not exceed the actual loss sustained. Settlement of a claim by
5 the City Manager pursuant to this section shall constitute a complete release of the City
6 from any and all damages sustained by the person involved in such settlement in any
7 manner arising out of the accident, occasion, or taking complained of. All such releases
8 shall be approved by the City Attorney.

9 **"ARTICLE XII. FINANCE AND TAXATION.**

10 "Sec. 12.1. **Occupancy Tax Authorized.** The City shall be authorized to levy a
11 room occupancy and tourism development tax as specified by Chapter 158, Session Laws
12 of 1991, and any subsequent acts. Sections 2(a) and 2(b) of Chapter 158, Session Laws
13 of 1991, are hereby repealed, and appointments and terms of the City of Washington
14 Tourism Development Authority shall be as specified in Sections 12.2 and 12.3 of this
15 Charter.

16 "Sec. 12.2. **Tourism Development Authority.** When the Council adopts an
17 ordinance levying a room occupancy tax as authorized by Chapter 158, Session Laws of
18 1991, it shall also adopt an ordinance creating the City of Washington Tourism
19 Development Authority, which shall be a public authority under the Local Government
20 Budget and Fiscal Control Act. The ordinance shall provide that the Authority shall be
21 composed of seven members to be appointed by the Council. One member shall be a
22 Council member, and the remaining six members shall be persons with a keen interest in
23 tourism in the City of Washington. All members of the Authority shall serve without
24 compensation. Vacancies shall be filled in the same manner as original appointments,
25 and members appointed to fill vacancies shall serve for the remainder of the unexpired
26 term. The Authority shall elect its Chair from among the members and create and fill
27 other offices as it wishes. The term of the Chair shall be one year with eligibility for
28 reelection, but no member may serve as Chair for more than two one-year terms in
29 succession. The Authority shall meet at the call of the Chair or of any three members and
30 shall adopt rules of procedure to govern its meetings. The Finance Director for the City
31 of Washington shall be the ex officio finance officer of the Authority.

32 "Sec. 12.3. **Terms of Authority Members.** Members of the Authority shall serve
33 three-year staggered terms. Those members serving on the date of ratification of this
34 Charter shall complete the remainder of their terms and their positions shall be filled as
35 the terms expire.

36 **"ARTICLE XIII. FIREMAN'S SUPPLEMENTAL RETIREMENT FUND.**

37 "Sec. 13.1. **Fireman's Supplemental Retirement Fund.** The Washington Fireman's
38 Supplemental Retirement Fund shall continue as authorized by Chapter 418, Session
39 Laws of 1975, and any subsequent acts. Terms and appointments of trustees shall be in
40 accordance with G.S. 58-84-30. The Secretary of the Board of Trustees of the
41 Supplemental Retirement Fund shall notify the City Clerk of the election or appointment
42 of representatives to the Board of Trustees.

43 **"ARTICLE XIV. MINIMUM HOUSING/ABANDONED BUILDINGS.**

1 "Sec. 14.1. **Buildings Vacated and Closed for One Year.** The City may exercise the
2 authority contained in G.S. 160A-443(5a)."

3 Sec. 2. The purpose of this act is to revise the Charter of the City of
4 Washington and to consolidate certain acts concerning the property, affairs, and
5 government of the City. It is intended to continue without interruption those provisions
6 of prior acts which are expressly consolidated into this act, so that all rights and liabilities
7 which have accrued are preserved and may be enforced.

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

11 Sec. 4. The following acts, having served the purposes for which they were
12 enacted or having been consolidated into this act, are expressly repealed:

13 Chapter 163, Session Laws of 1963, except for Section 4

14 Chapter 280, Session Laws of 1965

15 Chapter 808, Session Laws of 1967

16 Chapter 176, Session Laws of 1971

17 Chapter 322, Session Laws of 1981

18 Chapter 637, Session Laws of 1993.

19 Sec. 5. The Mayor and Council members serving on the date of ratification of
20 this act shall serve until the expiration of their terms or until their successors are elected
21 and qualified. Thereafter, those offices shall be filled as provided in Articles II and II of
22 the Charter contained in Section 1 of this act.

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

25 Sec. 7. All existing ordinances, resolutions, and other provisions of the City of
26 Washington not inconsistent with the provisions of this act shall continue in effect until
27 repealed or amended.

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

31 Sec. 9. If any provision of this act or application thereof is held invalid, such
32 invalidity shall not affect other provisions or applications of this act which can be given
33 effect without the invalid provision or application, and to this end the provisions of this
34 act are declared to be severable.

35 Sec. 10. Whenever a reference is made in this act to a particular provision of
36 the General Statutes, and such provision is later amended, superseded, or recodified, the
37 reference shall be deemed amended to refer to the amended General Statute, or to the
38 General Statute which most clearly corresponds to the statutory provision which is
39 superseded or recodified.

40 Sec. 11. This act is effective upon ratification.