NORTH CAROLINA GENERAL ASSEMBLY
1975 SESSION

CHAPTER 297
HOUSE BILL 641

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF WADESBORO AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

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

"THE CHARTER OF THE TOWN OF WADESBORO.

"ARTICLE I. Incorporation and Corporate Powers.

"Sec. 1.1. Incorporation and general powers. The Town of Wadesboro shall continue to be a body politic and corporate under the name of the 'Town of Wadesboro', and shall continue to be vested with all property and rights which now belong to the town; 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, 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.

"Sec. 1.2. Exercise of powers. All powers, functions, rights, privileges, and immunities of the town, its officers, agencies, or employees, shall be carried into execution as provided by the charter of the town, or, if the charter makes no provision, as provided by ordinance or resolution of the town council and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 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 Town of Wadesboro shall have and may exercise all other powers which, under the Constitution and laws of North Carolina, now are, or hereafter may be, granted to municipal corporations.

"ARTICLE II. Corporate Boundaries.

"Sec. 2.1. The corporate limits of the Town of Wadesboro shall be those existing at the time of the ratification of this charter and as the same may be altered from time to time in accordance with law. A map and description showing the current boundaries of the town shall be maintained permanently in the office of the town clerk as the official map and description of the corporate limits of the town, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law,

the council shall cause to be made the appropriate changes and/or additions to said official map and description. A redrawn map and rewritten description shall supercede for all purposes the earlier maps and descriptions which are respectively replaced.

"Sec. 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 Council.

"Sec. 3.1. Town council. The town council shall consist of five members to be elected by the qualified voters of the town voting at large in the manner provided in Article IV of this charter. Together with the mayor, the council shall be charged with the general government of the town.

"Sec. 3.2. Mayor. The mayor shall be elected by and from the qualified voters of the town voting at large in the manner provided in Article IV of this charter. The mayor shall be the official head of the town government and shall preside at all meetings of the council. Where there is an equal division on a question, the mayor shall determine the matter by his vote, but he shall vote in no other case. The mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by the town charter, and by the ordinances of the town.

"Sec. 3.3. Mayor pro tempore. The council shall choose one of its number to act as mayor pro tempore, and he shall perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the council.

"Sec. 3.4. Terms; qualifications; vacancies. (a) The members of the town council shall serve for terms of four years, and the mayor shall serve for a term of two years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or to be elected as mayor or as a member of the town council or to serve in such capacity, unless he is a resident and a qualified voter of the town.

(c) In the event a vacancy occurs in the office of mayor or council member, the town council shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.5. Organization of town council; oaths of office. The council members and mayor shall meet and organize for the transaction of business following each biennial election as provided by the uniform municipal election laws of North Carolina. Before entering upon their offices, the mayor and each council member shall take, subscribe to and have entered upon the minutes of the board the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God.'

"Sec. 3.6. Meetings of the council. The town council shall fix a suitable time and place for its regular meetings, which shall be held at least as often as once monthly.

Special meetings may be held according to the procedures and requirements designated by the general laws of North Carolina pertaining to special meetings of city councils.

"Sec. 3.7. Ordinances and resolutions. The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the council. The enacting clause of all ordinances shall be: 'Be it ordained by the town council of the Town of Wadesboro'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV. Elections.

"Sec. 4.1. Regular municipal elections. Regular municipal elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections. In the 1975 regular municipal elections and biennially thereafter there shall be elected a mayor for a term of two years. In the 1975 regular municipal election and quadrennially thereafter, two council members shall be elected to serve terms of four years each. In the 1977 regular municipal election and quadrennially thereafter, three council members shall be elected to serve terms of four years each. Newly elected council members shall fill the seats of those council members whose terms are then expiring.

"Sec. 4.2. Regulation of elections. All town elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections.

"ARTICLE V. Town Attorney.

"Sec. 5.1. Appointment; qualifications; term; compensation. The council shall appoint a town attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the town during his tenure. The town attorney shall serve at the pleasure of the board and shall receive such compensation as the council shall determine.

"Sec. 5.2. Duties of town attorney. It shall be the duty of the town attorney to prosecute and defend suits against the town; to advise the mayor, town council and other town officials with respect to the affairs of the town; to draft all legal documents relating to the affairs of the town; to draft proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the town may be concerned; to attend all meetings of the town council when required by the council; and to perform such other duties as may be required of him by virtue of his position as town attorney.

"ARTICLE VI. Town Manager.

"Sec. 6.1. Appointment; compensation. The council shall appoint an officer whose title shall be town manager and who shall be the head of the administrative branch of the town government. The town manager shall be chosen by the council on the basis of his executive and administrative qualifications with respect to the duties of his office as hereinafter prescribed. At the time of his appointment, he need not be a resident of the town or State, but shall reside therein during his tenure of office. The town manager shall serve at the pleasure of the council and shall receive such salary as the council shall fix. In case of absence or disability of the town manager, the council may

designate a qualified administrative officer of the town to perform the duties of the manager during such absence or disability.

"Sec. 6.2. Powers and duties of manager. The town manager shall be responsible to the council for the proper administration of all the affairs of the town. In exercising his duties as chief administrator, he shall have the following powers and duties:

(a) He shall appoint and suspend or remove all town employees whose appointment or removal is not otherwise provided for by law in accordance with such general personnel rules, regulations, policies, or ordinances as the council may adopt.

(b) He shall direct and supervise the administration of all departments, offices, and agencies of the town, subject to the general direction and control of the council, except as otherwise provided by law.

(c) He shall attend all meetings of the council and recommend any measures that he deems expedient.

(d) He shall see that all laws of the State, the town charter and the ordinances, resolutions and regulations of the council are faithfully executed within the town.

(e) He shall prepare and submit the annual budget and capital program to the town.

(f) He shall annually submit to the council and make available to the public a complete report on the finances and administrative activities of the town as of the end of the fiscal year.

(g) He shall make any other reports that the council may require concerning the operations of the town departments, offices, and agencies subject to his direction and control.

(h) He shall perform any other duties that may be required and authorized by the council.

"ARTICLE VII. Other Administrative Officers and Employees.

"Sec. 7.1. Town clerk. The council shall appoint a town clerk to keep a journal of the proceedings of the council and to maintain in a safe place all records and documents pertaining to the affairs of the town, and to perform such other duties as may be required by law or as the council may direct.

"Sec. 7.2. Town tax collector. The council shall appoint a tax collector to collect all taxes, licenses, fees and other moneys belonging to the town, subject to the provisions of this charter and the ordinances of the town. The town tax collector shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Sec. 7.3. Town treasurer. The council shall appoint a town treasurer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 7.4. Consolidation of functions. The council may consolidate any two or more of the positions of town clerk, town tax collector, and town treasurer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 7.5. Administrative officers and employees not cited. Consistent with applicable State and local laws, the council may establish other positions, provide for

the appointment of other administrative officers and employees, and generally organize the town government in order to promote the orderly and efficient administration of the affairs of the town.

"ARTICLE VIII. Alcoholic Beverage Control.

"Sec. 8.1. Election; authorized, scope. The town council of the Town of Wadesboro may at any time, upon petition filed by fifteen percent (15%) of the voters who voted in the last municipal election of the town, call an election for the purpose of submitting the question of whether or not town alcoholic beverage control stores may be operated in the town. At the election, if a majority of the votes cast shall be for the operation of such stores, it shall be legal for alcoholic beverage control stores to be set up and operated in the Town of Wadesboro.

"Sec. 8.2. Time for conducting election; effect of county election. No election shall be held under the provisions of Section 8.1 of this Article less than 60 days after the date that the election is called by the council. If, within 30 days following the publication of the call of the election, a county referendum for Anson County is called pursuant to G.S. 18A-51, the municipal election shall be thereby stayed until after such county election. If, at such county election, a majority of the votes cast shall be for county liquor control stores, the municipal election provided for herein for the Town of Wadesboro may not be held, but if, at such county election, a majority of the votes cast shall be against the establishment of county liquor control stores, the board of commissioners of the Town of Wadesboro may reset the date for the municipal election upon the question of the establishment of the Town of Wadesboro Alcoholic Beverage Control Stores. In resetting the date of the election, the council shall give at least 20 days' public notice of the same prior to opening of the registration books.

"Sec. 8.3. Qualification of voters; form, marking of ballot; election procedure. A new registration of voters for such election shall not be necessary and all qualified voters who are properly registered shall be entitled to vote in said election. Opportunity shall be given for additional registration as provided by law.

In such election, a ballot shall be used upon which shall be printed on separate lines for each proposition: 'For Town Alcoholic Beverage Control Stores'. 'Against Town Alcoholic Beverage Control Stores'. Those favoring setting up and operating alcoholic beverage control stores in the Town of Wadesboro shall mark in the voting square to the left of the words, 'For Town Alcoholic Beverage Control Stores' printed on the ballot; and those opposed to the town alcoholic beverage control stores shall mark in the voting square to the left of the words, 'Against Town Alcoholic Beverage Control Stores'.

Except as otherwise herein provided, if a special election is called, the election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections of the town council of the Town of Wadesboro, and the cost thereof shall be paid from the general fund of the town.

"Sec. 8.4. Town board of alcoholic control; formation upon approval of stores; membership, terms, compensation. If the operation of town alcoholic beverage control stores is authorized under the provisions of this Article, the council shall immediately create a town board of alcoholic control to be composed of a chairman and two other members who shall be well known for their character, ability and business acumen. Said

board shall be known and designated as 'The Town of Wadesboro Board of Alcoholic Control'.

One member appointed by the mayor and council shall be designated the chairman of said board and shall serve for his first term a period of three years. As to the other members, one member shall be appointed by the council and shall serve for his first term a period of two years, and the other member shall be appointed by the Board of County Commissioners of Anson County and shall serve for his first term a period of one year; and all terms shall begin with the date of their appointment. Thereafter, as the terms of the chairman and members expire, their successors in office shall serve for terms of three years each, and until their successors are appointed and qualified. The board of county commissioners shall continue to appoint one member of the board. Any vacancy shall be filled by the council for the unexpired term.

Compensation of the members of the town board of alcoholic control shall be fixed by the council.

"Sec. 8.5. Powers, duties of board of alcoholic control; scope of statutory authority. The Town of Wadesboro Board of Alcoholic Control shall have all the powers and duties imposed by Section 18A-17 of the General Statutes on county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in Section 18A-15 of the General Statutes. The Town of Wadesboro Board of Alcoholic Control and the operation of any town alcoholic beverage control stores authorized under the provisions of this Article shall be subject to and in pursuance of the provisions of Article 2 of Chapter 18A of the General Statutes except to the extent which the same may be in conflict with the provisions of this Article. Wherever the word 'county' board of alcoholic control appears in the said Article, it shall include the Town of Wadesboro Board of Alcoholic Control.

The Town of Wadesboro Board of Alcoholic Control shall have authority to employ legal counsel or such other employees as it may deem wise and fix their compensation.

"Sec. 8.6. Distribution of net revenues of board of alcoholic control. The town board of alcoholic control shall expend for law enforcement not less than five percent (5%) nor more than 10 percent (10%) of the total profits, after payment of all costs and operating expenses, and after retaining sufficient and property working capital, and in addition shall expend in its discretion not more than five percent (5%) of the total profits for education as to the effect of the use of alcoholic beverage, and for the rehabilitation of alcoholics. Any persons appointed by the board as a law enforcement officer shall have those powers and authority conferred in G.S. 18A-20 and in addition shall exercise such authority throughout the entire county.

The remainder of the net revenues shall be distributed by the board as follows: fifty percent (50%) to the general fund of the Town of Wadesboro and fifty percent (50%) to the general fund of Anson County.

"Sec. 8.7. Effect of county election after establishment of liquor stores in town. If, after the establishment of a liquor store or stores in the town, under the provisions of this Article, an election is called for the County of Anson pursuant to G.S. 18A-51 and a majority of the votes cast in such election shall be for the establishment of county liquor

stores in Anson County, then within six months following the establishment of and opening of any county liquor control stores, the town board of alcoholic control shall close the Town of Wadesboro alcoholic beverage control stores and shall thereafter cease to operate the same. During such six months period, the town board of alcoholic control shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of the town board of alcoholic control, and shall convert the same into money and, after making a true and faithful accounting, shall turn all money in its hands over to the general fund of the town.

If, at the county election called pursuant to G.S. 18A-51 a majority of the votes cast shall be against the establishment of county liquor control stores, the town alcoholic beverage control stores and the Town of Wadesboro Board of Alcoholic Control shall not be affected by the results of such election for the establishment of county liquor stores, and the provisions of this Article shall remain in full force and effect.

"Sec. 8.8. County election on question of continuance of town stores. In the event that town alcoholic beverage control stores are authorized under the provisions of this Article at any time after the expiration of four years following the establishment of town alcoholic beverage control stores in the Town of Wadesboro, if fifteen percent (15%) of the registered voters of Anson County petition for a referendum to be held upon the question of whether the operation of the said town beverage control stores shall be continued, the board of commissioners of the County of Anson shall call a county election for the purpose of submitting such question to the voters.

At said election, if a majority of the votes cast shall be for the continuation of such stores, the provisions of this Article shall remain in full force and effect. If, at such election, the majority of the voters shall be against continuation of operation of alcoholic beverage control stores in the Town of Wadesboro, then within six months following such election, the town board of alcoholic control shall close the Town of Wadesboro alcoholic beverage control stores and shall thereafter cease to operate same, disposing of all beverages, fixtures, and other property as provided for in Section 8.7 hereof.

"Sec. 8.9. Frequency of elections. No election as herein provided shall be held within four years of any other election which may have been held pursuant to the provisions of this Article. However, if a municipal election is held as provided in Section 8.1 of this Article, another such election may be held at any time after four years regardless of the outcome of the initial election.

"ARTICLE IX. Claims Against The Town.

"Sec. 9.1. Presentation of claims; suit upon claims. (a) All claims or demands against the Town of Wadesboro arising in tort or in contract shall be presented to the town council in writing, signed by the claimant or his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues. No suit or action shall be brought thereon within 30 days, or after the expiration of 12 months, from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the town for damages to or compensation for real property taken or used by the town for any public purpose, or for the ejectment of the town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the council of the claim, including in the notice the date that the alleged use commenced, a description of the property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence of the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence or the infliction of the injury complained of, whichever is the longer period. The town may at any time request the appointment of a next friend to represent any person having a potential claim against the town and known to be suffering from physical or mental incapacity."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Wadesboro and to consolidate herein certain acts concerning the property, affairs, and government of the town. 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. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein.

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Wadesboro.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

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

Private Laws of 1783 Chapter 47
Private Laws of 1841 Chapter 54
Private Laws of 1787 Chapter 54
Private Laws of 1843 Chapter 73
Private Laws of 1866 Chapter 25
Private Laws of 1867 Chapter 126
Private Laws of 1873 Chapter 57
Private Laws of 1891 Chapter 26
Private Laws of 1893 Chapter 213

Public Laws of 1895 Chapter 63
Public Laws of 1897 Chapter 128
Private Laws of 1899 Chapter 128
Private Laws of 1901 Chapter 49
Private Laws of 1901 Chapter 192
Public Laws of 1903 Chapter 267
Private Laws of 1903 Chapter 272
Private Laws of 1905 Chapter 85
Private Laws of 1905 Chapter 189
Public Laws of 1905 Chapter 750
Private Laws of 1907 Chapter 469
Private Laws of 1907 Chapter 513
Private Laws of 1909 Chapter 265
Private Laws of 1911 Chapter 15
Private Laws Extra Session, 1913 Chapter 35
Private Laws of 1915 Chapter 393
Private Laws Extra Session, 1924 Chapter 35
Private Laws of 1925 Chapter 15
Private Laws of 1929 Chapter 217
Public-Local Laws of 1937 Chapter 501
Session Laws of 1947 Chapter 704
Session Laws of 1949 Chapter 1198
Session Laws of 1951 Chapter 605
Session Laws of 1959 Chapter 609
Session Laws of 1959 Chapter 690
Session Laws of 1963 Chapter 223
Session Laws of 1963 Chapter 750
Session Laws of 1965 Chapter 270
Session Laws of 1967 Chapter 735

Sec. 5. Chapter 617 of the Session Laws of 1969 is hereby amended by deleting from the ninth line of Section 3 thereof, the word "Wadesboro".

Sec. 6. 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 provisions of law repealed by this act.

Sec. 7. 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. 8. (a) All existing ordinances and resolutions of the Town of Wadesboro and all existing rules or regulations of departments or agencies of the Town of Wadesboro, 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 Town of Wadesboro or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 9. If any 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. 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 11. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 12. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1975.