

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1366
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Short Title: Washington Charter Revision.

(Local)

Sponsors: Representative Edwards.

Referred to: Local and Regional Government I.

May 28, 1996

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF
3 WASHINGTON.

4 The General Assembly of North Carolina enacts:

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

7 "THE CHARTER OF THE CITY OF WASHINGTON.
8 "ARTICLE I. INCORPORATION, CORPORATE POWERS, AND
9 BOUNDARIES.

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

14 "Sec. 1.2. **Powers.** The City shall have and may exercise all of the powers, duties,
15 rights, privileges, and immunities conferred upon the City of Washington specifically by
16 this Charter or upon municipal corporations by general law. The term 'general law' is
17 employed herein as defined in G.S. 160A-1.

18 "Sec. 1.3. **Corporate Boundaries.** The corporate boundaries shall be those existing
19 at the time of ratification of this Charter, as set forth on the official map of the City and as

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

7 "ARTICLE II. GOVERNING BODY.

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

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

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

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

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

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

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

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

38 "ARTICLE III. ELECTIONS.

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

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

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

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

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

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

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

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

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

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

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

41 "Sec. 4.7. **Other Administrative Officers and Employees.** The Council may
42 authorize other positions to be filled by appointment by the City Manager, and may

1 organize the City government as deemed appropriate, subject to the requirements of
2 general law.

3 "ARTICLE V. STREET IMPROVEMENTS.

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

- 10 (1) The street improvement project does not exceed twelve hundred (1,200)
11 linear feet; and
- 12 (2) a. The street or part thereof is unsafe for vehicular traffic or creates a
13 safety or health hazard, and it is in the public interest to make such
14 improvement; or
- 15 b. It is in the public interest to connect two streets, or portions of a
16 street already improved; or
- 17 c. It is in the public interest to widen a street, or part thereof, which
18 is already improved; provided, that assessments for widening any
19 street or portion of a street without a petition shall be limited to
20 the cost of widening and otherwise improving such street in
21 accordance with street classification and improvement standards
22 established by the City's thoroughfare or major street plan for the
23 particular street or part thereof.

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

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

35 "ARTICLE VI. SIDEWALKS.

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

39 "Sec. 6.2. **City Cleaning or Repair; Costs Become Lien.** The City Council may by
40 ordinance establish a procedure whereby City forces may remove from any sidewalk any
41 debris, trash, ice, or snow upon failure of the abutting property owner after 10 days'
42 notice to do so. In such event, the cost of such removal shall become a lien upon the
43 abutting property equal to the lien for ad valorem taxes and may thereafter be collected

1 either by suit in the name of the City or by foreclosure of the lien in the same manner and
2 subject to the same rules, regulations, costs, and penalties as provided by law for the
3 foreclosure of the lien on real estate for ad valorem taxes.

4 **"ARTICLE VII. REMOVAL OF MOTOR VEHICLES.**

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

14 **"ARTICLE VIII. EXTRATERRITORIAL POWERS.**

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

20 **"ARTICLE IX. RIVER REGULATION.**

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

28 **"ARTICLE X. PURCHASING AND CONTRACTS.**

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

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

42 **"ARTICLE XI. CLAIMS AGAINST THE CITY.**

1 "Sec. 11.1. **Settlement of Claims by City Manager.** The City Manager may settle
2 claims against the City for (i) personal injuries or damages to property when the
3 amount involved does not exceed the amount of the applicable insurance deductible and
4 does not exceed the actual loss sustained, including loss of time, medical expenses, and
5 any other expenses actually incurred; and (ii) the taking of small portions of private
6 property which are needed for the rounding of corners at street intersections, when the
7 amount involved in any such settlement does not exceed two thousand five hundred
8 dollars (\$2,500) and does not exceed the actual loss sustained. Settlement of a claim by
9 the City Manager pursuant to this section shall constitute a complete release of the City
10 from any and all damages sustained by the person involved in such settlement in any
11 manner arising out of the accident, occasion, or taking complained of. All such releases
12 shall be approved by the City Attorney.

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

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

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

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

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

41 "Sec. 13.1. **Fireman's Supplemental Retirement Fund.** The Washington Fireman's
42 Supplemental Retirement Fund shall continue as authorized by Chapter 418, Session
43 Laws of 1975, and any subsequent acts. Terms and appointments of trustees shall be in

1 accordance with G.S. 58-84-30. The Secretary of the Board of Trustees of the
2 Supplemental Retirement Fund shall notify the City Clerk of the election or appointment
3 of representatives to the Board of Trustees.

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

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

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

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

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

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

18 Chapter 280, Session Laws of 1965

19 Chapter 808, Session Laws of 1967

20 Chapter 176, Session Laws of 1971

21 Chapter 322, Session Laws of 1981, except for Section 2

22 Chapter 637, Session Laws of 1993.

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

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

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

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

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

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

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