

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-298
HOUSE BILL 772**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF HUNTERSVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Huntersville is revised and consolidated to read:

"CHARTER OF THE TOWN OF HUNTERSVILLE.

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

"Sec. 1.1. **Incorporation.** The Town of Huntersville and the inhabitants thereof shall continue to be a municipal body politic and corporate under the name and style of the "Town of Huntersville," hereinafter sometimes referred to as the "Town."

"Sec. 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Huntersville specifically by this Charter or upon municipal corporations by general law, which shall include as general law as defined in G.S. 160A-1.

"Sec. 1.3. **Corporate Boundaries.** The corporate limits shall be those existing at the time of the ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town showing the current municipal boundaries shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made, and copies shall be filed in the office of the Secretary of State, the Mecklenburg County Register of Deeds, the appropriate board of elections, and as may otherwise be required by general law.

"ARTICLE II. GOVERNING BODY.

"Sec. 2.1. **Governing Body; Composition.** The Board of Commissioners, hereinafter referred to as the "Board," and the Mayor shall be the governing body.

"Sec. 2.2. **Board of Commissioners.** Beginning with the election and installation of Board members elected in the 2011 municipal elections, the Board shall consist of six members, elected by all qualified voters of Huntersville, for a term of two years or until their successors are elected and qualified. Until such time, the Board shall continue to consist of five members elected to serve a two-year term or until their successors are elected and qualified.

"Sec. 2.3. **Mayor, Term of Office, Duties.** The Mayor shall be elected by all qualified voters of the Town for a term of two years and until a successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at meetings of the Board. The Mayor shall have the right to vote only when there is an equal division on any question in a matter before the Board, unless otherwise provided in this Charter, and shall exercise the powers and duties conferred by law or as directed by the Board.

"Sec. 2.4. **Mayor Pro Tempore.** The Board shall elect one of its members to act as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability. A Board member serving as Mayor Pro Tempore shall be entitled to vote on all matters and shall be considered a Board member for all purposes, including the determination of whether a quorum is present. The Mayor Pro Tempore shall serve at the pleasure of the Board.

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

"Sec. 2.6. **Quorum; Voting.** As provided by G.S. 160A-74, a majority of the actual membership of the Board plus the Mayor, excluding vacant seats, shall constitute a quorum. A member who has withdrawn from a meeting without being excused by a majority vote of the



remaining members of the Board present shall be counted as present for the purposes of determining whether or not a quorum is present. All votes shall be taken in accordance with applicable provisions of general law, and in particular G.S. 160A-75.

"Sec. 2.7. **Qualifications.** The qualifications of the Mayor and Board members shall be in accordance with general law and with the Constitution of North Carolina.

"Sec. 2.8. **Compensation.** The Board may fix its own compensation and the compensation of the Mayor and any other elected officers of the Town, in such sums as may be just and reasonable. Adjustments in the compensation of the Mayor and any other elected officials may be made effective at such time as the Board may direct, but the salary of elected officials shall not be reduced during the then current term of office unless such official has agreed thereto. The officers shall be entitled to reimbursement for actual expenses incurred in the course of performing their official duties subject to adopted Board policies. The Board may, from time to time, establish rates and amounts of reimbursement which shall not be exceeded without prior approval of the Board.

"Sec. 2.9. **Vacancies on Board.** In the event of a vacancy on the Board, the remaining members of the Board shall select a replacement to fill the unexpired term, which replacement shall serve until the expiration of that term or until a replacement thereof is elected and qualified. If the vacancy is as a result of the resignation of a Board member, and if the resigning member has tendered his or her resignation effective as of the date subsequent thereto, and such resignation is accepted by the remaining members of the Board, the Board may appoint a replacement at anytime thereof to be effective upon the effective date of the resignation, and if the resignation is to be effective more than one year from and after the beginning of the resigning member's then current term, in which case the resigning member may participate in the selection of the replacement.

"Sec. 2.10. **Vacancies in Office of Mayor.** In the case of a vacancy in the office of Mayor, the remaining members of the Board shall choose a replacement to fulfill an unexpired term of the Mayor and until a replacement thereof is elected and qualified, provided, the selection of a replacement other than a then serving member of the Board shall require the affirmative vote of three-fourths of the total membership of the Board, excluding vacant seats.

"Sec. 2.11. **Powers and Duties.** Board members and the Mayor shall have all of the powers and duties granted by this Charter and granted by general municipal law, unless specifically limited by this Charter.

"ARTICLE III. ELECTIONS.

"Sec. 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the Uniform Municipal Election Laws of North Carolina. Elections shall be conducted and the Mayor and Board Members elected on a nonpartisan basis according to the nonpartisan, plurality method authorized by G.S 163-292. The Mayor shall be elected by all voters of the Town to serve for a two-year period and until his or her successor is elected and qualified.

"Sec. 3.2. **Election of Mayor and Commissioners.** The Mayor and all Board members shall be elected by all of the qualified voters of the Town in each regular municipal election, to serve for a term of two years or until their replacement is elected and qualified. The Mayor and Board members serving at the time of the ratification of this act shall continue in office until the next regular municipal election.

"Sec. 3.3. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or any applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. **Form of Government.** The Town shall operate under the Council-Manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. **Town Manager.** The Board shall appoint the Town Manager to be the administrative head of the Town government and be responsible for the administration of all departments and to serve at the pleasure of the Board, and receive such compensation as is fixed by the Board. The appointment shall be in accordance with G.S. 160A-147 and the provisions of Article 5 of this Charter. The Town Manager may concurrently hold another appointed, but not elected, office as determined by the Board. The Town Manager shall be the administrative head of the Town and shall have all the powers, duties, and authority as set forth in G.S. 160A-148, by general law, and by this Charter, unless otherwise limited by this Charter.

"Sec. 4.3. **Town Clerk.** The Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of

meetings, and perform such other duties as may be required by law or as may be directed by the Board or Town Manager.

"Sec. 4.4. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform such other duties as required by law or as may be directed by the Board. The Board may appoint one or more assistant town attorneys to assist the Town Attorney. The Board may further authorize the Town Manager to engage the services of other duly qualified attorneys on individual legal matters and projects.

"Sec. 4.5. **Finance Director.** The Town Manager shall appoint a Finance Director to perform the duties designated in G.S. 159-25 and such other duties as may be prescribed by law or assigned by the Town Manager.

"Sec. 4.6. **Tax Collector.** The Board shall appoint a Tax Collector to perform those duties specified in G.S. 105-350 and such other duties as are prescribed by law or assigned by the Town Manager. This office is one that may be held concurrently with any other appointed, but not elected, office. Notwithstanding, the Town is specifically authorized to enter into interlocal agreements with other governmental taxing authorities and agencies to perform some or all of the tax collecting and revenue collecting services for the Town, and to pay to such other agency such fees as the Board may have, by resolution adopting the interlocal agreement, agreed to.

"ARTICLE V. TOWN MANAGER.

"Sec. 5.1. **Board-Manager Relationship.** The Board shall hold the Town Manager responsible for the proper management and affairs of the Town, and the Town Manager shall keep the Board informed of conditions and needs of the Town and shall make such reports and recommendations as may be requested by the Board or as the Town Manager may deem necessary. Neither the Mayor, Board, nor any member thereof shall direct the conduct of any Town employee, directly or indirectly, except through the Town Manager.

"Sec. 5.2. **Assistant Town Manager.** The Town Manager may appoint an Assistant Town Manager to exercise such duties as the Town Manager may direct, and who shall serve as the acting Town Manager to exercise the powers and perform the duties of the Town Manager during the temporary absence or disability of the Town Manager. During such absence or disability, the Board may revoke the designation as acting Town Manager and appoint another to serve until the Town Manager returns or his or her disability ceases.

"Sec. 5.3. **Execution of Instruments.** The Town Manager may execute in the name and on behalf of the Town, contracts, bonds, and other legal instruments, except for deeds, deeds of trust, and mortgages, when such instruments are authorized by the Board, this Charter, or general law.

"Sec. 5.4. **Settlement of Claims.** The Town Manager may, when authorized by the Board by a specific or a continuing resolution, settle claims against the Town for:

(a) Personal injuries or damages to property when the amount involved does not exceed the sum of five thousand dollars (\$5,000) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses, actually incurred; and

(b) The taking of small portions of private property needed for road and street purposes when the amount involved does not exceed the actual loss sustained and the taking has been authorized by the Board. Settlement of a claim by the Town Manager pursuant to this provision shall constitute a complete release of the Town for any and all other damages sustained by the person involved in the settlement in any manner arising out of the incident, the occasion, or taking or complained of.

"ARTICLE VI. PUBLIC CONTRACTS.

"Sec. 6.1. **Design-Build.** The Town of Huntersville may contract for the design, construction, and operation of buildings, parking decks or facilities, roads and streets, bridges, sidewalks and other transportation-related facilities, and other public projects, notwithstanding any provisions and requirements of Chapter 143 of the General Statutes. The authorization includes, if deemed appropriate by the Board, the use of the single-prime contractor method of design and construction, the design-build or the design-build-operate method of construction, or a request for proposals and negotiation as an alternative design and construction method. The Town shall request proposals from and interview at least three design-build teams, or design-build-operate teams as appropriate, that have submitted proposals for the project. If three proposals are not received and the project has been publicly advertised for a minimum of 30 days, then the Town may proceed with the proposals received. The Town shall award the contract to the best qualified contractor, taking into account the time of completion of the

project, the capital and operation and maintenance costs of the project, the technical merits of the proposal including, but not limited to, reliability and protection of the environment, and such other factors and information set forth in the request for proposals that the Town determines to have a material bearing on the ability to evaluate any proposal.

"ARTICLE VII. SALE, LEASE, AND DISPOSITION OF PROPERTY.

"Sec. 7.1. **Disposition of Certain Real Property.** The Board may authorize the Town Manager to dispose of interest in real property without obtaining Board approval for each disposition by private negotiation and sale when the fair market value of the Town's interest in the real property is ten thousand dollars (\$10,000) or less.

"Sec. 7.2. **Disposition of Personal Property.** The Town may sell any and all surplus property belonging to the Town at private sale, including by use of electronic auction.

"Sec. 7.3. **Lease or Rental of Property.** Notwithstanding the provisions of G.S. 160A-272, the Board may, in its discretion, lease Town-owned property for such terms and upon such conditions as the Board may determine, including terms for more than 10 years without the necessity of following any procedures other than those required by G.S. 160A-272 for leases of 10 years or less. The Town is specifically authorized to lease such property to any person or entity and for any purposes the Town deems appropriate, so long as the Board has reasonably determined that such leased property shall not be needed for public purposes for the term of the lease, and if the leased property is not to be used for public purpose, that the lease shall be at a fair market rate.

"Sec. 7.4. **Conditions and Restrictions Authorized.** The Board may sell, exchange, or otherwise transfer the fee or any lesser interest in real property to any purchaser subject to covenants, conditions, and restrictions as the Board may deem to be in the public interest. The sale, exchange, or other transfer may be made pursuant to the provisions of this Charter, Article 7 of Chapter 160A of the General Statutes, or any other applicable provisions of law, and the consideration received by the Town, if any, for the sale, exchange, or transfer may reflect the restricted use of the property resulting from the covenants, conditions, and restrictions. The Town may invite bids or written proposals, including detailed development plans and site plans, for the purchase of any property or property interest, whether by sale, exchange, or other transfer, pursuant to such specifications as may be approved by the Town. The sale, exchange, or other transfer of real property, or interest therein, pursuant to this section may be made contingent upon the necessary rezoning of the property.

"ARTICLE VIII. REGULATORY AND PLANNING FUNCTIONS.

"Sec. 8.1. **Adequate Level of Service.** In order to ensure that growth and development will not adversely affect the public health, safety, and general welfare of the Town, its residents, and those subject to its jurisdiction, the Board may adopt ordinances to ensure that proposed development will not adversely impact traffic and transportation conditions and the level of services for parks, fire and police protection, and other governmental services below a level of service as may be determined by the Board from time to time. Any such ordinance must contain provisions permitting the applicant for such development to mitigate impact of development if such development would cause the level of service to fall below the predetermined level.

"ARTICLE IX. EXTENSION OF LIMITS.

"Sec. 9.1. **Annexation of Noncontiguous Areas.** G.S. 160A-58.1(b)(5) shall not apply to the Town."

SECTION 2. The purpose of this act is to revise the Charter of the Town of Huntersville and to consolidate 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 not inconsistent therewith, so that all rights and liabilities which have accrued are preserved and may be enforced. 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:

Chapter 240, Private Laws of 1876-1877

Chapter 46, Private Laws of 1885

Chapter 320, Private Laws of 1893

Chapter 684, Session Laws of 1961

Chapter 777, Session Laws of 1963.

SECTION 3. No provision of this act is intended, nor shall be construed, to affect in any way, any rights or interest, whether public or private:

- (1) 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; or
- (2) Derived from or which might be sustained or preserved in reliance upon, actions heretofore taken pursuant to or within the scope of any provision of law repealed by this act expressly or by implication.

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

- (1) The repeal of any act repealing such law, or
- (2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 5. All existing ordinances and resolutions of the Town of Huntersville and all existing rules and regulations of departments or agents of the Town of Huntersville not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

SECTION 6. 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 Huntersville or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

SECTION 7. If any part of this act or the application thereof to any person or circumstances is held to be 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.

SECTION 8. Whatever 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 that most nearly corresponds to the statutory provision amended, repealed, or superseded.

SECTION 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of July, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives