

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 107  
HOUSE BILL 83

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

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Wendell is revised and consolidated to read:

"THE CHARTER OF THE TOWN OF WENDELL

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Sec. 1.1. Incorporation. The Town of Wendell, North Carolina, in the County of Wake, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Wendell', hereinafter at times referred to as the 'Town'.

"Sec. 1.2. Powers. The Town of Wendell shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now, or hereafter may be, conferred, either expressly or by implication, upon the Town of Wendell specifically, or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or local law.

"ARTICLE II. CORPORATE BOUNDARIES.

"Sec. 2.1. Existing Corporate Boundaries. The corporate boundaries of the Town of Wendell shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the Town, and as the same may be altered from time to time in accordance with law. An official map of the Town, showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the Town shall be made.

"Sec. 2.2. Extension of Corporate Boundaries. All extensions of the corporate boundaries shall be governed by the General Statutes.

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS.

"Sec. 3.1. Governing Body. The Mayor and Board of Commissioners, elected and constituted as herein set forth, shall be the governing body of the Town. On behalf of the Town, and in conformity with applicable laws, the Mayor and Board may provide for the exercise of all municipal powers, and shall be charged with the general government of the Town.

"Sec. 3.2. Board of Commissioners; Composition; Terms of Office. The Board of Commissioners shall be composed of 5 members, each of whom shall be elected for a

term of 4 years in the manner provided by Article IV of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 3.3. Selection of the Mayor; Term of Office; Duties.

The Mayor shall be elected directly by the voters of the Town in the manner provided by Article IV of this Charter, for a term of 4 years; provided, the Mayor shall serve until his successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. He shall have the right to vote only if there are an equal number of votes in the affirmative and the negative on any matter before the Board. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes, by this Charter, and by the ordinances of the Town.

"Sec. 3.4. Mayor Pro Tempore. In accordance with applicable State laws, the Board of Commissioners shall appoint one of its members to act as Mayor pro tempore to 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 Board.

"Sec. 3.5. Meetings of the Board. In accordance with the General Statutes, the Board of Commissioners shall establish a suitable time and place for its regular meetings. Special meetings may be held according to the applicable provisions of the General Statutes.

"Sec. 3.6. Ordinances and Resolutions. The adoption, amendment, repeal, pleading, or proving of Town ordinances and resolutions shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and nays shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all Town ordinances shall be: 'Be it ordained by the Board of Commissioners of the Town of Wendell'.

"Sec. 3.7. Voting Requirements; Quorum. Official action of the Board of Commissioners shall, unless otherwise provided by law, be by majority vote, provided that a quorum, consisting of a majority of the actual membership of the Board, is present. Vacant seats are to be subtracted from the normal Board membership to determine the actual membership.

"Sec. 3.8. Qualifications for Office; Vacancies; Compensation.

The compensation of Board members, the filling of vacancies on the Board, and the qualifications of Board members shall be in accordance with applicable provisions of the General Statutes.

#### "ARTICLE IV. ELECTIONS.

"Sec. 4.1. Regular Municipal Elections. Elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections.

"Sec. 4.2. Conduct and Method of Election. Elections for Mayor and Board of Commissioners shall be by the non-partisan plurality method set out in the General Statutes. All elections and referendums of the Town of Wendell shall be held and conducted as provided by the applicable General Statutes.

"Sec. 4.3. Election of Mayor and Board of Commissioners. The Town Board of Commissioners shall be elected for four-year terms on a staggered basis as follows: At

the regular municipal election to be held in 1985, two members shall be elected to serve four-year terms. At the regular municipal election to be held in 1987, the two candidates who receive the highest number of votes shall be elected for four-year terms, while the candidate receiving the third highest number of votes shall be elected for a two-year term. At the regular municipal election to be held in 1989, and every four years thereafter, three members of the Board of Commissioners shall be elected to serve four-year terms. Beginning at the regular municipal election to be held in 1991 and every four years thereafter, two members of the Board of Commissioners shall be elected to serve for four- year terms. Beginning at the regular municipal election to be held in 1987 and every four years thereafter, the Mayor of the Town of Wendell shall be elected for a four-year term.

"ARTICLE V. ORGANIZATION AND ADMINISTRATION.

"Sec. 5.1. 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. 5.2. Town Manager; Appointment; Compensation. The Board of Commissioners shall appoint an officer whose title shall be 'Town Manager' and who shall be the head of the administrative branch of the city government. The Manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the Town at the time of his appointment. The Town Manager shall serve at the pleasure of the Board of Commissioners and shall receive such salary as the Board of Commissioners shall fix. In case of absence or disability of the Town Manager, the Commissioners may designate a qualified administrative officer of the Town to perform the duties of the Manager during such absence or disability. The Manager shall have all powers and duties as conferred upon him by the General Statutes of North Carolina.

"Sec. 5.3. Town Attorney. The Board of Commissioners shall appoint a Town Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. The Town Attorney need not be a resident of the Town during his tenure. It shall be the duty of the Town Attorney to prosecute and defend suits against the Town; to advise the Mayor, Board of Commissioners 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 inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend meetings of the Board of Commissioners; and to perform other duties required by law or as the Board of Commissioners or Mayor may direct.

"Sec. 5.4. Town Clerk. The Board of Commissioners shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform other duties required by law or as the Board of Commissioners may direct.

"Sec. 5.5. Town Finance Officer. The Board of Commissioners shall appoint a Town Finance Officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 5.6. Town Budget Officer. The Board of Commissioners shall appoint a Town Budget Officer to perform the duties of the budget officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 5.7. Town Tax Collector. The Board of Commissioners may appoint a Town Tax Collector to collect all taxes, licenses, fees and other monies belonging to the Town, subject to the General Statutes, the provisions of this Charter and the ordinances of the Town.

"Sec. 5.8. Consolidation of Functions. The Board of Commissioners may consolidate any two or more positions of Town Clerk, Town Tax Collector, Town Budget Officer and Town Finance Officer, 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. 5.9. Other Administrative Officers and Employees. Consistent with applicable State laws, the Board of Commissioners may establish 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 VI. PLANNING AND REGULATION OF DEVELOPMENT.

"Sec. 6.1. Conditional Use Zoning Districts. In addition to the powers granted to the Town in G.S. 160A-381 et seq., the Town may provide for the creation of conditional use zoning districts.

It is the purpose and intent of this section to permit the Town to create, through the legislative process, both general use districts, in which a variety of uses are permitted, and conditional use districts, in which limited uses are permitted only upon approval by the Town.

A person petitioning for rezoning of a tract of land where conditional use districts are authorized by ordinance, may elect to request a general use district or a conditional use district for the tract. If the petitioner elects to petition for the general use zoning, and if the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district. If the petitioner elects to petition for conditional use district zoning, the petition must specify the actual use or uses which are intended for the property specified in the petition. If the petition is for conditional use district zoning, the Town is to approve or disapprove the petition on the basis of the specific use or uses requested.

#### "ARTICLE VII. LOCAL IMPROVEMENTS AND ASSESSMENTS FOR LOCAL IMPROVEMENTS.

"Sec. 7.1. Local Improvements; Assessment of Costs. In addition to any authority which is now or may hereafter be granted by general law to the Town for making local improvements, the Board of Commissioners may make the local improvements described in this Charter as in its discretion it may deem appropriate, with or without any petition so to do and to assess the total cost of said improvements against the benefited property within its corporate limits in accordance with the provisions of Sections 7.1 through 7.7 herein.

"Sec. 7.2. Separate Proceeding not Required. One or more local improvements may be made in a single proceeding, and assessments for one or more local improvements may be combined.

"Sec. 7.3. Improvements Described. The Board of Commissioners shall have the authority to make special assessments against benefited property within its corporate limits for:

- (1) Constructing, reconstructing, paving, widening, installing curbs and gutters and otherwise building and improving streets;
- (2) Constructing, reconstructing, paving, widening and otherwise building or improving sidewalks on any public street;
- (3) Constructing, reconstructing, extending and otherwise building or improving water systems;
- (4) Constructing, reconstructing, extending or otherwise building or improving sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems;
- (5) Constructing, reconstructing, extending and otherwise building or improving storm sewer and drainage systems;
- (6) Constructing, reconstructing, extending or otherwise making any other improvements within the corporate limits for which the Town is allowed to make special assessments pursuant to Article 10 of Chapter 160A of the General Statutes.

"Sec. 7.4. Assessment Procedure. In ordering improvements to be made without a petition and assessing the cost thereof under authority of this Article, the Board of Commissioners shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the requirement for petition of property owners and the sufficiency thereof and the payment of assessments by installments as modified herein.

"Sec. 7.5. Payment of Assessment in Cash or by Installments. The property owner assessed shall have the option of paying for improvements in cash or in not more than ten annual installments as may have been determined by the Board of Commissioners in the Resolution directing the project giving rise to the assessment to be undertaken. Provided, the Board of Commissioners may provide in said Resolution directing the project to be undertaken that payment shall be made in cash or in fewer than ten annual installments as in its discretion it may deem appropriate.

"Sec. 7.6. Enforcement of Assessments. Assessments shall be enforced as provided in the procedure set forth in Article 10 of Chapter 160A of the General Statutes.

"Sec. 7.7. Effect of Assessments. The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

#### "ARTICLE VIII. CHARTER AMENDMENTS.

"Sec. 8.1. Incorporation of Amendments.

(a) As soon as possible after the adjournment of each General Assembly, the Town Attorney shall present to the Board of Commissioners copies of all local laws relating to the property, affairs and government of the Town of Wendell that were enacted by such General Assembly, whether or not amending any terms of this Charter,

and recommend formal changes in this Charter. Such recommendations may include suggestions for renumbering or rearranging the provisions of such laws, for providing titles and catch lines, and for such other changes in arrangement and form that do not change the law, as may be thought necessary to implement the purposes of this section.

(b) After considering the recommendations of the Town Attorney, the Commissioners may provide for the incorporation of such laws into this Charter.

(c) The purpose of this section is to enable the Town to maintain at all times a current and accurate Town Charter, organized in clear and orderly fashion and embracing all pertinent local laws relating to the property, affairs and government of the Town."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Wendell 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 acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. (a) The following acts are repealed:

- (1) Chapter 316, Private Laws of 1903.
- (2) Chapter 221, Private Laws of 1907.
- (3) Chapter 156, Private Laws of 1913.
- (4) Chapter 105, Private Laws, Extra Session of 1913.
- (5) Chapter 244, Private Laws of 1915.
- (6) Chapter 265, Private Laws of 1915.
- (7) Chapter 35, Private Laws of 1921.
- (8) Chapter 233, Private Laws of 1933.
- (9) Chapter 77, Private Laws of 1935.
- (10) Chapter 63, Public-Local Laws of 1939.
- (11) Chapter 454, Session Laws of 1951.
- (12) Chapter 294, Session Laws of 1953.
- (13) Chapter 132, Session Laws of 1961.

(b) The following acts are not repealed:

- (1) Chapter 5, Session Laws of 1949.
- (2) Chapter 273, Session Laws of 1965.
- (3) Chapter 689, Session Laws of 1977.
- (4) Chapter 364, Session Laws of 1973.

Sec. 5. 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, 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. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

- (1) The repeal herein 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.

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

Sec. 8. 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. 9. 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. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1985.