

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 14  
HOUSE BILL 79

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

The General Assembly of North Carolina enacts:

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

"THE CHARTER OF THE TOWN OF KENLY.

"ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Sec. 1.1. Incorporation. The Town of Kenly, North Carolina, in the County of Johnston and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Kenly,' hereinafter at times 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 which are now, or hereafter may be, conferred, either expressly or by implication, upon the Town of Kenly specifically, or upon municipal corporations generally, by this Charter, by the North Carolina Constitution, or by general or local law.

"Sec. 1.3. Corporate Limits. The corporate limits of the Town of Kenly 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 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, and copies shall be filed in the offices of the Secretary of State, the Johnston County Register of Deeds and the appropriate board of elections.

"ARTICLE II. MAYOR AND TOWN COUNCIL.

"Sec. 2.1. Governing Body. The Mayor and Town Council, hereinafter referred to at times as the 'Council,' elected and constituted as herein set forth, shall be the governing body of the Town. On behalf of the Town, and in conformity with the general laws of North Carolina, hereinafter referred to at times as the 'general law,' the Mayor and the Council may provide for the exercise of all municipal powers, and shall be charged with the general government of the Town.

"Sec. 2.2. Town Council; Composition; Terms of Office. The council shall be composed of five members, each of whom shall be elected for a term of four years in

the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. Mayor; Term of Office; Duties. The Mayor shall be elected in the manner provided by Article III of this Charter to serve for a term of two years, or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Council. He shall have the right to vote only when there are an equal number of votes in the affirmative and the negative on any question or matter before the Council. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred by the general law, this Charter and the ordinances of the Town.

"Sec. 2.4. Mayor Pro Tempore. In accordance with applicable general law, the Council 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 other members of the Council.

"Sec. 2.5. Meetings of the Council. In accordance with the general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held in accordance with the applicable provisions of the general law.

"Sec. 2.6. Ordinances and Resolutions. The adoption, amendment, repeal, pleading, and proving of Town ordinances and resolutions shall be in accordance with the applicable provisions of general law 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.

"Sec. 2.7. Voting Requirements; Quorum. Official actions of the Council and all votes shall be taken in accordance with the applicable voting and quorum provisions of general law, particularly G.S. 160A-74 and 160A-75.

"Sec. 2.8. Qualifications for Office; Vacancies; Compensation.

The compensation of Council members, the filling of vacancies on the Council and the qualifications of Council members shall be in accordance with applicable provisions of general law.

### "ARTICLE III. ELECTIONS.

"Sec. 3.1. Regular Municipal Elections; Conduct and Method of Elections. Regular municipal elections shall be held in the Town every two years in odd-numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and Town Council shall be elected by the voters of the Town on an at large basis, by the nonpartisan plurality method of election.

"Sec. 3.2. Election of the Council Members. The Council members serving on the date of ratification of this Charter may continue to serve until expiration of their terms, or until their successors are elected and qualified. Council members shall continue to be elected and to serve on a four-year staggered term system. At the regular municipal election in 1985, and every four years thereafter, there shall be elected three Council members to fill the seats of those Council members whose terms are then expiring. At the regular municipal election in 1987, and every four years thereafter, there shall be

elected two Council members to fill the seats of those Council members whose terms are then expiring.

"Sec. 3.3. Election of the Mayor. The Mayor serving on the date of ratification of this Charter may continue to serve until the expiration of his or her term, or until a successor is elected and qualified. At the regular municipal election in 1985, and every two years thereafter, there shall be elected a Mayor to serve as provided in Article II of this Charter.

#### "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 Council shall appoint a Town Manager who shall be the administrative head of the Town government and shall be responsible for the administration of all departments of the Town government. He shall be appointed with regard to merit only, and he need not be a resident of the Town when appointed. He shall hold office during the pleasure of the Council and shall receive such compensation as it shall fix by ordinance.

The Town Manager so appointed shall:

- (1) direct and supervise the administration of all departments, offices and agencies of the Town;
- (2) see that within the Town the laws of the State and the ordinances, resolutions, and regulations of the Council are faithfully executed;
- (3) attend all meetings of the Council and recommend for adoption such measures as he shall deem expedient;
- (4) appoint and remove all heads of departments and other employees of the Town except the Town Attorney, in accordance with such general personnel rules, regulations, policies, or ordinances as the Council may adopt;
- (5) prepare and submit the annual budget and capital program to the Council;
- (6) submit annually 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;
- (7) make such other reports as the Council may require concerning affairs of the Town; and
- (8) perform any other duties that may be required and authorized by the Council.

"Sec. 4.3. Town Attorney. The Council shall appoint a Town Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the Town Attorney to prosecute and defend suits against the Town; to advise the Mayor, Council members 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 Council; and to perform other duties required by law or as the Council may direct.

"Sec. 4.4. Town Clerk. The Council shall provide for the appointment of a Town Clerk to keep a journal of the proceedings of the Council, 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. 4.5. Town Finance Director. The Council shall provide for the appointment of a Town Finance Director to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.6. Town Tax Collector. The Council shall provide for the appointment of a Town Tax Collector to collect all taxes, licenses, fees and other revenues accruing to the Town subject to the General Statutes, the provisions of this Charter and the ordinances of the Town. The Town Tax Collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes and other revenues.

"Sec. 4.7. Consolidation of Functions. The Council may consolidate any two or more positions of Town Manager, Town Clerk, Town Tax Collector 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 and the Machinery Act.

"Sec. 4.8. Other Administrative Officers and Employees. Consistent with applicable general law, 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."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Kenly 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:

- (1) Any acts concerning the property, affairs, or government of public schools in the Town of Kenly.
- (2) 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 repealed:

Chapter 92, Private Laws of 1887  
Chapter 238, Private Laws of 1893  
Chapter 635, Public Laws of 1901  
Chapter 185, Private Laws of 1909  
Chapter 166, Private Laws of 1929  
Chapter 132, Public-Local Laws of 1939

Chapter 281, Public-Local Laws of 1939  
Chapter 208, Public-Local Laws of 1941  
Chapter 622, Session Laws of 1951  
Chapter 45, Session Laws of 1961  
Chapter 238, Session Laws of 1963  
Section 1 of Chapter 75, Session Laws of 1967

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (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.

(2) Derived from, or which might be sustained or preserved in reliance upon, action previously taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law previously repealed expressly or by implication, and no law granting authority which has been exhausted, shall be construed to be revived by any provision of this act.

Sec. 7. All existing ordinances and resolutions of the Town of Kenly and all existing rules or regulations of departments or agencies of the Town of Kenly not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified or amended.

Sec. 8. 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 or any of its departments or agencies shall be abated or otherwise affected by the ratification of this act.

Sec. 9. If any provision of this act or the application thereof to any person or circumstance 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, superseded or recodified, 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, superseded or recodified.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1985.