

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 1018
HOUSE BILL 2188

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF
WHITEVILLE.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Whiteville is revised and consolidated to read:

"THE CHARTER OF THE CITY OF WHITEVILLE

"ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES

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

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

"Sec. 1.3. **Corporate Limits.** The corporate limits are those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with law. An official map of the City showing the current boundaries shall be maintained permanently in the office of the City 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 shall be made and copies shall be filed in the office of the Secretary of State, the Columbus County Register of Deeds and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY

"Sec. 2.1. **Mayor and Council.** The Mayor and City Council, hereinafter referred to as the 'Council,' is the governing body of the City.

"Sec. 2.2. **Council; Composition; Terms of Office.** The Council is composed of four members elected by all the qualified voters of the City for staggered terms of four years.

"Sec. 2.3. **Mayor; Term of Office; Duties.** The Mayor is elected by all the qualified voters of the City for a term of two years; is the official head of the City government and presides at meetings of the Council; shall have the right to vote only when there is an equal division on a question or matter before the council; and shall exercise the powers and duties conferred by law or as directed by the Council.

"Sec. 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the other members of the council.

"Sec. 2.5. **Meetings.** In accordance with general law, the Council 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. **Voting Requirements; Quorum.** Official actions of the Council and all votes shall be taken in accordance with applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Sec. 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Council members shall be in accordance with general law. Vacancies that occur in any elective office of the City shall be filled by appointment as provided in G.S. 160A-63.

"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 are conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Sec. 3.2. **Election of Council Members.** Two Council members shall be elected in each regular municipal election, as the respective terms expire.

"Sec. 3.3. **Election of Mayor.** A Mayor shall be elected in each regular municipal election.

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

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION

"Sec. 4.1. **Form of Government.** The City shall operate under the council-manager form of government, in accordance with G.S. Chapter 160A, Article 7, Part 2.

"Sec. 4.2. **City Manager.** The Council shall appoint a City Manager who is responsible for the administration of all departments of the city government. The City Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter. Neither the Mayor nor the City Council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the City Manager. Except for the purposes of inquiry, the Mayor and the City Council and its members shall deal with officers and employees in the administrative service only through the City Manager, and neither the Mayor nor the City Council nor any of its members shall give orders or directions to any subordinate of the City Manager, either publicly or privately.

"Sec. 4.3. **City Clerk.** The City Manager shall appoint a City Clerk to keep a journal of the proceedings of the Council; to maintain official records and documents; to give notice of meetings; and to perform such other duties required by law or as the Council may direct.

"Sec. 4.4. **Tax Collector.** The City Manager shall appoint a Tax Collector, who may be the Columbus County Tax Collector, to collect all taxes owed to the City, subject to general law, this Charter and City ordinances.

"Sec. 4.5. **City Finance Officer.** The City Manager shall appoint a Finance Officer to perform the duties required by law or as the Council may direct, or the City Council may at its election confer the duties of Finance Officer on the City Manager as Budget Officer. The Finance Officer may be entitled 'Accountant,' 'Treasurer,' 'Finance Director,' 'Finance Officer' or any other reasonably descriptive title.

"Sec. 4.6. **City Attorney.** The Council shall appoint a City Attorney licensed to practice law in North Carolina. It shall be the duty of the City Attorney to represent the City, advise City officials and perform other duties required by law or as the Council may direct.

"Sec. 4.7. **Other Administrative Officers and Employees.** The Council may authorize additional offices and positions, to be filled by appointment of the City Manager. The Council may organize the City government as deemed appropriate, including combining any of the offices provided for in this Article, subject to the requirements of general law.

"ARTICLE V. SPECIAL PROVISIONS

"Sec. 5.1. **Disposal of Surplus Real Property.** The Mayor and City Council shall have power, in addition to the power granted by Article 12 of Chapter 160A of the General Statutes of North Carolina, by their unanimous vote to dispose of any real property which the Council has declared to be surplus, in the following manner:

(1) Without bids or advertisement, at private sale, if the property has a market value of not more than two thousand dollars (\$2,000);

(2) Without bids or advertisement, by exchange for real property of like or greater market value;

(3) No sale or exchange of real property authorized by this section shall be ordered by the Mayor and City Council unless they shall have caused to be published at least once in each of the two calendar weeks immediately preceding the vote authorizing such sale in a newspaper having general circulation in the City a notice of their intention to consider such sale or exchange.

"Sec. 5.2. **Settlement of Claims by City Manager.** The City Manager may, with the prior approval of the City Council, settle claims against the City for: (i) personal injuries or damages to property when the amount involved does not exceed the sum of five hundred dollars (\$500.00) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed one thousand dollars (\$1,000) and does not exceed the actual loss sustained. Settlement of a claim by the City Manager pursuant to this section shall constitute a complete release of the City from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion or taking complained of. All such settlements, and all such releases, shall be approved in advance by the City Attorney.

"ARTICLE VI. WHITEVILLE FIREMEN'S SUPPLEMENTAL
RETIREMENT FUND

"Sec.6.1. **Supplemental Retirement Fund Created.** The Board of Trustees of the Local Firemen's Relief Fund of the City of Whiteville, as established in accordance with G.S. 118.6, hereinafter called Board of Trustees, shall create and maintain a separate fund to be called the Whiteville Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for such fund separate from the books of account of the Firemen's Local Relief Fund of the City of Whiteville, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this act.

"Sec. 6.2. **Transfer of Funds and Disbursements.** Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of Whiteville shall:

(1) In each calendar year, and within 30 days after receipt from the City Officer of the annual funds paid to the Local Relief Fund by authority of G.S. 118-5, transfer the funds to the Supplemental Retirement Fund; and

(2) When the amount of funds in the Local Relief Fund shall, by reason of disbursements authorized by G.S. 118-7, be less than five hundred dollars (\$500.00), transfer from the Supplemental Retirement Fund to the Local Relief Fund an amount sufficient to maintain in the Local Relief Fund the sum of five hundred dollars (\$500.00).

"Sec.6.3. **Eligibility.** Any volunteer firefighter or full-time paid firefighter of the Whiteville Fire Department as shown by record on May 5, 1971, or any volunteer or full-time paid firefighter employed after ratification of this act shall be eligible for benefits from the Supplemental Retirement Fund, provided that no firefighter shall be eligible for benefits from the Supplemental Retirement Fund unless such person has qualified for benefits as stated in Section 6.4, 6.5 or 6.6.

"Sec. 6.4. Normal Retirement Benefits.

(a) **Volunteer Firefighter.** A monthly supplemental retirement benefit after reaching the age of 55 and with 20 years of service shall be paid from the Supplemental Retirement Fund in an amount equal to seventy-five dollars (\$75.00).

(b) **Full-Time Paid Firefighter.** A monthly supplemental retirement benefit after reaching the age of 55 years and with 20 years of service shall be paid from the Supplemental Retirement Fund in an amount of ten percent (10%) of the firefighter's monthly salary at the time immediately preceding retirement, but in no case shall this amount exceed one hundred fifty dollars (\$150.00).

(c) **Combination Full-Time Paid and Volunteer Service.** A member's full-time and volunteer service time can be combined to equal 20 years of service and shall be paid from the Supplemental Retirement Fund on a prorated basis as decided by the Board of Trustees.

(d) If any member who has been a member of a rated fire department with a Local Relief Fund becomes employed with the Whiteville Fire Department, the member's service time may be transferred to the Whiteville Local Relief Fund after the

member has served five years, providing all the rights and privileges as other members of the Whiteville Fire Department.

"Sec. 6.5. All the payments made to the retirees will come from the interest accumulated from the money invested. The principal shall never be used for payment to retirees. The Board of Trustees shall have the authority to make any adjustments in payments to retirees if interest is not sufficient to make retiree payments.

"Sec. 6.6. **Disability Benefit.** Any firefighter of the Whiteville Fire Department injured in the line of duty shall be entitled to receive monthly compensation from the Supplemental Retirement Fund. Compensation shall be prorated on the basis of the number of years of service as determined by the Board of Trustees of the Supplemental Retirement Fund.

"Sec. 6.7. **Investment of Funds.** The Board of Trustees is authorized to invest any funds of the Local Relief Fund or the Supplemental Retirement Fund as authorized by G.S. 159-28.1.

"Sec. 6.8. **Acceptance of Gifts.** The Board of Trustees is hereby authorized to accept any gift, grant, bequest or donation of money for the use of the Supplemental Retirement Fund.

"Sec. 6.9. **Bond of Treasurer.** The Board of Trustees shall bond the Treasurer of the Local Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties. The bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Local Relief Fund the premium on the bond of the Treasurer.

"ARTICLE VII. SPECIAL ASSESSMENT PROVISIONS

"Sec. 7.1. Assessment for Street Improvements; Petition Unnecessary.

(a) In addition to any authority granted by general law, the Council may order street improvements and to assess the costs thereof against abutting property in accordance with the provisions of this Article.

(b) The Council may order street improvements and assess the total costs thereof against abutting property, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of G.S. Chapter 160A without the necessity of a petition, upon the following findings of fact:

- (1) That the street improvement project does not exceed 1,200 linear feet; and
- (2) That such street or part thereof is unsafe for vehicular traffic or creates a safety or health hazard and it is in the public interest to make such improvements; or
- (3) That it is in the public interest to connect two streets or portions of a street already improved; or
- (4) That it is in the public interest to widen a street, or part thereof, which is already improved; provided that assessments for widening any street or portion of a street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the

City's thoroughfare or major street plan, as applied to the particular street or part thereof.

(c) For the purposes of this Article, the term 'street improvement' includes grading, regrading, surfacing, resurfacing, widening, paving, repaving, acquisition of right-of-way and construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 7.2. **Assessments for Sidewalk Improvement; Petition Unnecessary.** In addition to any authority granted by general law, the council is hereby authorized, without the necessity of petition, to order sidewalk improvements or repairs according to standards and specifications of the City, and to assess the total costs thereof against abutting property, according to one or more of the assessment bases set forth in Article 10 of G.S. Chapter 160A; provided that regardless of the assessment basis or bases employed, the Council may order the costs of sidewalk improvements made only on one side of a street to be assessed against property abutting both sides of such street.

"Sec. 7.3. **Procedure; Effect of Assessments.** In ordering street and sidewalk improvements without a petition and assessing the costs thereof under authority of this Article, the Council shall comply with the procedures required by Article 10 of G.S. Chapter 160A, except those provisions relating to petitions of property owners and sufficiency thereof. The effect of the act of levying assessments under authority of this Article shall be the same as if assessments were levied under authority of Article 10 of G.S. Chapter 160A."

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

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

Sec. 4. All local acts in conflict with this act are repealed. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 806, Session Laws of 1967

Chapter 308, Session Laws of 1971

Chapter 980, Session Laws of 1985.

Sec. 5. The Mayor and Council members serving on the date of ratification of this act shall serve until the expiration of their terms. Thereafter, those offices shall be filled as provided in Articles II and III of the the Charter contained in Section 1 of this act.

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

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

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

Sec. 9. If any provision or application of this act 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, 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 superseded or recodified.

Sec. 11. None of the provisions of this act pertaining to the Whiteville Firemen's Supplemental Retirement Fund shall create a liability for the Fund unless sufficient assets are available to pay for the liability.

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 29th day of June, 1988.