

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 169  
HOUSE BILL 554

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

The General Assembly of North Carolina enacts:

**Section 1.** The Charter of the City of Kinston is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF KINSTON

"ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES

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

"Section 1.2. Powers. The City shall have and may exercise all of the powers, duties, rights, privileges and immunities conferred upon the City of Kinston 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.

"Section 1.3. Corporate Limits. The corporate limits shall be those existing at the time of ratification of this Charter, as set forth in the official description of the City's boundaries and 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 offices of the Secretary of State, the Lenoir County Register of Deeds and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY

Section 2.1. Mayor and Council. The Mayor and Council shall be the governing body of the City.

"Section 2.2 Council; Composition; Terms of Office. The Council shall be composed of five members elected for staggered terms of four years or until their successors are elected and qualified.

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

"Section 2.4. Mayor Pro Tempore. The Mayor shall appoint from among the members of the Council 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.

"Section 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.

"Section 2.6. Ordinances and Resolutions. The adoption, amendment, repeal, pleading and proving of City ordinances and resolutions shall be in accordance with general law. All ordinances and resolutions shall be effective upon adoption unless otherwise provided.

"Section 2.7. 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. A majority of the members of the Council, excluding vacancies, shall constitute a quorum.

"Section 2.8. 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 of the Council for the remainder of the unexpired term.

### "ARTICLE III. ELECTIONS

"Section 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 results determined on a partisan basis as provided in G.S. 163-291.

"Election 3.2. Election of Council Members. The Council members serving on the date of ratification of this Charter shall serve until the expiration of their terms or until their successors are elected and qualified. In the regular municipal election in 1987, and every four years thereafter, there shall be elected three Council members to serve as provided in Article II of this Charter. In the regular municipal election in 1989, and every four years thereafter, there shall be elected two Council members to serve as provided in Article II.

"Section 3.3. Election of the Mayor. The Mayor serving on the date of ratification of this Charter shall serve until the expiration of his or her term. At the municipal election in 1989 and every four years thereafter, there shall be elected a Mayor to serve as provided in Article II.

"Section 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

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

"Section 4.2. City Manager. The Council shall appoint a City Manager who shall be 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. No person elected mayor or to membership on the Council shall, subsequent to such election, be eligible for appointment as City Manager until one year has elapsed following the expiration of the term for which he or she was elected.

"Section 4.3. City Clerk. The Council 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.

"Section 4.4. City Tax Collector. The Council shall appoint a Tax Collector pursuant to G.S. 105-349 to collect all taxes owed to the City, subject to general law, this Charter and City ordinances.

"Section 4.5. 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.

"Section 4.6. Other Administrative Officers and Employees. The Council may provide for appointment of other officers and employees, and may organize the City government as deemed appropriate, subject to the requirements of general law.

#### "ARTICLE V. SPECIAL ASSESSMENT PROVISIONS

"Section 5.1. Assessment for Street Improvements; Petition Unnecessary.

"A. In addition to any authority granted by general law, the Council is hereby authorized to 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 Chapter 160A, Article 10 of the General Statutes 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.

"Section 5.2. 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 specification 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 Chapter 160A, Article 10 of the General Statutes, 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.

"Section 5.3. 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 Chapter 160A, Article 10 of the General Statutes, 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 Chapter 160A, Article 10 of the General Statutes."

**Sec. 2.** The purpose of this act is to revise the Charter of the City of Kinston 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 have 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 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 837, Session Laws of 1986

Chapter 94, Session Laws of 1983  
Chapter 127, Session Laws of 1981  
Chapter 203, Session Laws of 1975  
Chapter 185, Session Laws of 1971  
Chapter 1052, Session Laws of 1967  
Chapter 436, Session Laws of 1967  
Chapter 94, Session Laws of 1965  
Chapter 502, Session Laws of 1965  
Chapter 92, Session Laws of 1961  
Chapter 443, Session Laws of 1961  
Chapter 801, Session Laws of 1961  
Chapter 1119, Session Laws of 1961  
Chapter 447, Session Laws of 1957  
Chapter 1120, Session Laws of 1955  
Chapter 1170, Session Laws of 1955  
Chapter 1312, Session Laws of 1955  
Chapter 936, Session Laws of 1953  
Chapter 157, Session Laws of 1947  
Chapter 397, Session Laws of 1947  
Chapter 946, Session Laws of 1947  
Chapter 297, Session Laws of 1943  
Chapter 200, Public-Local Laws of 1941  
Chapter 14, Public-Local Laws of 1939, except for  
    Section 3  
Chapter 642, Public-Local Laws of 1937  
Chapter 530, Public-Local Laws of 1935  
Chapter 25, Private Laws of 1933  
Chapter 78, Private Laws of 1933  
Chapter 120, Private Laws of 1933  
Chapter 181, Private Laws of 1929  
Chapter 94, Private Laws of 1925  
Chapter 155, Private Laws of 1923  
Chapter 225, Private Laws of 1923  
Chapter 74, Private Laws of 1921  
Chapter 109, Private Laws of 1919  
Chapter 150, Private Laws of 1919  
Chapter 6, Private Laws of 1917  
Chapter 319, Private Laws of 1915, except for Section 1  
Chapter 202, Private Laws of 1913  
Chapter 205, Private Laws of 1913  
Chapter 578, Public-Local Laws of 1911  
Chapter 8, Private Laws of 1909  
Chapter 260, Private Laws of 1909  
Chapter 338, Private Laws of 1905

Chapter 282, Private Laws of 1903  
Chapter 180, Private Laws of 1901  
Chapter 180, Private Laws of 1899  
Chapter 75, Private Laws of 1895  
Chapter 183, Private Laws of 1895  
Chapter 187, Private Laws of 1895  
Chapter 256, Private Laws of 1895  
Chapter 117, Private Laws of 1893  
Chapter 16, Private Laws of 1887  
Chapter 33, Private Laws of 1885  
Chapter 1, Private Laws of 1883, as to Kinston only  
Chapter 7, Private Laws of 1879  
Chapter 80, Private Laws of 1879, as to Kinston only  
Chapter 79, Public Laws of 1876-77  
Chapter 131, Private Laws of 1874-75  
Chapter 129, Private Laws of 1876-77  
Chapter 15, Private Laws of 1866, Special Session  
Chapter 21, Private Laws of 1866, Special Session, as  
to Kinston only, except that Section 2 is  
not repealed  
Chapter 23, Public Laws of 1865  
Chapter 224, Private Laws of 1858-59  
Chapter 324, Private Laws of 1850-51  
Chapter 226, Private Laws of 1848-49  
Chapter 137, Private Laws of 1835  
Chapter 118, Private Laws of 1832-33  
Chapter 170, Private Laws of 1833-34  
Chapter 41, Private Laws of 1826  
Chapter 139, Private Laws of 1822  
Chapter 46, Private Laws of 1817  
Chapter 29, Private Laws of 1815  
Chapter 90, Private Laws of 1809  
Chapter 42, Private Laws of 1806  
Chapter 35, Private Laws of 1795  
Chapter 46, Private Laws of 1784  
Chapter 13, Private Laws of 1762

**Sec. 5.** This act does not affect any rights or interests which arose under any provisions repealed by this act.

**Sec. 6.** All existing ordinances, resolutions and other provisions of the City of Kinston not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

**Sec. 7.** 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. 8.** 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. 9.** 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. 10.** This act is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of May, 1987.