

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 740
SENATE BILL 423

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

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Elkin is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF ELKIN

"ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES

"Section 1.1. Incorporation. The Town of Elkin, North Carolina, and the inhabitants thereof, is a municipal body politic and corporate, under the name of the 'Town of Elkin,' hereinafter at times referred to as the 'Town.'

"Section 1.2. Powers. The Town has and may exercise all of the powers, duties, rights, privileges and immunities conferred upon the Town of Elkin 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 are those existing at the time of 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 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 shall be made, and copies shall be filed in the office of the Secretary of State, either the Surry or Wilkes County Register of Deeds, and the appropriate boards of elections.

"ARTICLE II. GOVERNING BODY

"Section 2.1. Mayor and Board of Commissioners. The Mayor and Board of Commissioners, hereinafter referred to as the 'Board,' shall be the governing body of the Town.

"Section 2.2. Board; Composition; Terms of Office. The Board is composed of five Commissioners elected by all the qualified voters of the Town for staggered terms of four years.

"Section 2.3. Mayor; Term of Office; Duties. The Mayor is elected by all the qualified voters of the Town for a term of four years; is the official head of the Town government and presides at meetings of the Board; has the right to vote only when there is an equal division on any question or matter before the Board; and exercises the powers and duties conferred by law or as directed by the Board.

"Section 2.4. Mayor Pro Tempore. The Board elects 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 serves in such capacity until the organizational meeting following the next regular municipal election, despite the contrary provisions of G.S. 160A-70.

"Section 2.5. Meetings. The Board sets a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. Voting Requirements; Quorum. Official actions of the Board and all votes are taken in accordance with applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 apply.

"Section 2.7. Compensation; Qualifications for Office; Vacancies. The compensation and qualifications of the Mayor and Commissioners are in accordance with general law. Vacancies that occur in any elective office of the Town are filled by appointment of the Board as provided in G.S. 160A-63.

"ARTICLE III. ELECTIONS

"Section 3.1. Regular Municipal Elections. Regular municipal elections are held in each odd-numbered year in accordance with the uniform municipal elections laws of North Carolina. Elections are conducted on a nonpartisan basis and the results determined using the plurality method as provided in G.S. 163-292.

"Section 3.2. Election of Commissioners. Two or three Commissioners are elected in each regular municipal election, as the respective terms expire.

"Section 3.3. Election of the Mayor. A Mayor is elected in the regular municipal election each four years.

"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 Town operates under the council-manager form of government, in accordance with G.S. Chapter 160A, Article 7, Part 2.

"Section 4.2. Town Manager. The Board appoints a Town Manager who is responsible for the administration of all departments of the Town government. The Town Manager has all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter.

"Section 4.3. Town Clerk. The Board appoints 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 to perform such other duties required by law or as the Board may direct.

"Section 4.4. Tax Collector. The Board appoints a Tax Collector to collect all taxes owed to the Town, subject to general law, this Charter and Town ordinances.

"Section 4.5. Town Attorney. The Board appoints a Town Attorney licensed to practice law in North Carolina. The Town Attorney represents the Town, advises Town officials and performs other duties required by law or as the Board may direct.

"Section 4.6. Other Administrative Officers and Employees. The Board may provide for appointment of other officers and employees by the Town Manager, and

may organize the Town 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

"Section 5.1. Acceptance of Conveyance of Real Property for Liens. Despite G.S. 105-357(a) and other provisions of law, the Board, by resolution, may accept conveyance of real property on which the Town has a lien, in full or partial satisfaction of the tax, special assessment, or other charge or liability underlying the lien, including the expense of transferring title to the Town. The resolution shall order the lien cancelled of record, or reduced to the extent the liability underlying the lien is satisfied. Acceptance of conveyance by the Town does not affect a lien on the property held by a person or entity other than the Town. Property conveyed to the Town under this section may be disposed of subsequently by the Town under any of the methods provided in Article 12 of G.S. Chapter 160A, including private sale under G.S. 160A-267.

"Section 5.2. Elkin Employees' Retirement. The Town of Elkin participates in the N.C. Local Governmental Employees' Retirement System, as provided in Article 3 of G.S. Chapter 128, and under the rules and regulations of the Retirement Systems Division of the Office of State Treasurer. Any member employed by the Town may purchase additional creditable service in the System for employment with the Town before establishment of the Town's previous private retirement plan. Such additional creditable service may be purchased as if the provisions of G.S. 135-4(t) were applicable, but without the necessity of completing 10 years of membership service. The purchase must be made within one year after the member first becomes eligible to make such purchase.

"Section 5.3. Elkin Firemen's Supplemental Retirement Fund. The Elkin Firemen's Supplemental Retirement Fund shall continue as authorized by Chapter 391, Session Laws of 1971, as amended.

"Section 5.4. Alcoholic Beverage Control Stores. Alcoholic beverage control stores shall operate in the Town of Elkin as provided in Chapter 806, Session Laws of 1965, as amended."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Elkin 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 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 of government of public schools, or acts validating official actions, proceeds, contracts or obligations of any kind.

Sec. 3.1. This act does not repeal Section 3 of Chapter 730, Session Laws of 1987.

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 86, Private Laws of 1889

Chapter 368, Private Laws of 1893

Chapter 88, Private Laws of 1901
Chapter 119, Private Laws of 1903
Chapter 5, Private Laws of 1911
Chapter 44, Private Laws of 1911
Chapter 25, Private Laws of 1913
Chapter 282, Private Laws of 1913
Chapter 186, Private Laws of 1929
Chapter 348, Public-Local Laws of 1931, except for Section 6
Chapter 138, Private Laws of 1931
Chapter 520, Public-Local Laws of 1933
Chapter 71, Public-Local Laws of 1933
Chapter 30, Private Laws of 1933
Chapter 82, Private Laws of 1933, except for Section 1
Chapter 142, Private Laws of 1933
Chapter 258, Private Laws of 1935
Chapter 190, Private Laws of 1935
Chapter 150, Public-Local Laws of 1937, as to Elkin
Chapter 77, Public-Local Laws of 1937
Chapter 178, Public-Local Laws of 1937
Chapter 297, Public Laws of 1939
Chapter 436, Public-Local Laws of 1941
Chapter 710, Session Laws of 1943, as to Elkin
Chapter 865, Session Laws of 1951
Chapter 832, Session Laws of 1951
Chapter 128, Session Laws of 1957
Chapter 127, Session Laws of 1957
Chapter 822, Session Laws of 1963
Chapter 96, Session Laws of 1967
Chapter 712, Session Laws of 1969
Chapter 254, Session Laws of 1973
Chapter 175, Session Laws of 1981
Chapter 742, Session Laws of 1985
Chapter 992, Session Laws of 1985 (Regular Session 1986)

Sec. 5. Chapter 391, Session Laws of 1971, is amended in the third line of Section 4 by deleting "G.S. 159-28.1" and substituting "G.S. 159-30".

Sec. 6. Chapter 806, Session Laws of 1965, as amended, is deemed amended further to change each reference to Chapter 18 of the General Statutes or to particular sections or Articles of the former Chapter 18 of the General Statutes to refer to the provisions of the current Chapter 18B of the General Statutes which most closely correspond.

Sec. 7. The Mayor and Commissioners serving on the date of ratification of this act shall serve for the remainder of their terms. Thereafter, those offices shall be filled by election as provided in Articles II and III of the Charter.

Sec. 8. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Sec. 9. All existing ordinances, resolutions and other provisions of the Town of Elkin not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Sec. 10. No action or proceeding pending on 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 this act.

Sec. 11. 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 provisions or application, and to this end the provisions of this act are declared to be severable.

Sec. 12. 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 section of the General Statutes, or to the General Statute section which most clearly corresponds to the statutory provision which is superseded or recodified.

Sec. 13. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of August, 1987.