

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 126
HOUSE BILL 520

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

The General Assembly of North Carolina enacts:

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

"THE CHARTER OF THE TOWN OF WAYNESVILLE.

"ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

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

"Sec. 1.2. **Powers.** The Town of Waynesville 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 Waynesville specifically or upon municipal corporations generally by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. **Corporate Limits.** The corporate limits of the Town of Waynesville shall be those existing at the time of ratification of this Charter, as the same are now or hereafter may be constituted pursuant to law. The corporate limits of the Town of Waynesville also include all areas within the corporate limits of the Town of Hazelwood existing on July 1, 1995, the date that the Town of Hazelwood is merged into the Town of Waynesville. An official map or description 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 pursuant to law, the appropriate changes to the official map or description of the Town shall be made.

"ARTICLE II. MAYOR AND BOARD OF ALDERMEN.

"Sec. 2.1. **Governing Body.** The Mayor and Board of Aldermen, 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. 2.2. **Mayor; Terms of Office; Duties.** The Mayor shall be elected by and from the qualified voters of the Town for a term of four years, in the manner provided by Article III of this Charter; provided, the Mayor shall serve until his successor is

elected and qualified. The Mayor shall be the official head of the Town government, shall preside at all meetings of the Board of Aldermen, and shall have the powers and duties of Mayor as prescribed by this Charter and the General Statutes. The Mayor shall have the right to vote on all matters before the Board.

"Sec. 2.3. **Board of Aldermen; Terms of Office.** The Board of Aldermen shall be composed of four members, each of whom shall be elected for terms of four years, in the manner provided by Article III of this Charter; provided, Board members shall serve until their successors are elected and qualified.

"Sec. 2.4. **Mayor Pro Tempore.** In accordance with applicable State laws, the Board of Aldermen 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. 2.5. **Meetings of the Board.** In accordance with applicable State laws, the Board shall establish a suitable time and place for its regular meetings. Special meetings may be held according to applicable provisions of the General Statutes.

"Sec. 2.6. **Ordinances and Resolutions.** The adoption, amendment, repeal, pleading, or proving of Town ordinances and resolutions shall be in accordance with applicable provisions of the General Statutes of North Carolina not inconsistent with this Charter. Except as otherwise provided by law, all ordinances shall become effective upon adoption; provided, an ordinance may, by its own terms, specify some other time upon which it shall take effect. The enacting clause of all Town ordinances shall be: 'Be it ordained by the Board of Aldermen of the Town of Waynesville'.

"Sec. 2.7. **Voting Requirements; Quorum.** Official action of the Board shall, except as 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 actual membership.

"Sec. 2.8. **Qualifications for Office; Vacancies; Compensation.** The compensation of Board members, the filling of vacancies of the Board, and the qualifications of Board members shall be in accordance with applicable provisions of the General Statutes.

"ARTICLE III. ELECTIONS.

"Sec. 3.1. **Regular Municipal Elections; Conduct.** Regular municipal elections shall be held in the Town every four years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and members of the Board shall be elected according to the nonpartisan election method.

"Sec. 3.2. **Election of the Mayor.** At the regular municipal election in 1995, and every four years thereafter, there shall be elected a Mayor and four aldermen to serve a term of four years.

"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 Board of Aldermen shall appoint a Town Manager who shall be the administrative head of Town government, and who shall be responsible to the Board for the proper administration of the affairs of the Town. The Town Manager shall hold office at the pleasure of the Board of Aldermen, and shall receive such compensation as the Board shall determine. In exercising his duties as chief administrator, the manager shall:

- (1) Appoint and suspend or remove all Town officers and employees not elected by the people, except the Town Attorney and those whose appointment or removal is otherwise provided by law, in accordance with such general personnel rules, regulations, policies or ordinances as the Board shall adopt.
- (2) Report to the Board of Aldermen each appointment or removal of an officer or employee at the next Board meeting following such appointment or removal.
- (3) Direct and supervise the administration of all departments, offices, and agencies of the Town, subject to the general direction and control of the Board, except as otherwise provided by law.
- (4) Attend all meetings of the board, unless excused therefrom, and recommend any measures that he deems expedient.
- (5) Prepare and submit the annual budget and capital program to the Board.
- (6) Keep the Board fully advised as to the financial condition of the Town and annually submit to the Board, and make available to the public, a complete report on the finances and administrative activities of the Town at the end of the fiscal year.
- (7) Make any other reports that the Board may require concerning the operation of the Town departments, offices and agencies subject to his direction and control.
- (8) Perform any other duties that may be required or authorized by the Board, or as required by law.

"Sec. 4.3. **Town Attorney.** The Board of Aldermen shall appoint a Town Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. Upon request of the Board of Aldermen, it shall be the duty of the Town Attorney to defend suits against the Town; to advise the Mayor, Board of Aldermen and other Town officials with respect to the affairs of the Town; to draft legal documents relating to the affairs of the Town; to inspect and pass upon agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend meetings of the Board of Aldermen, and to perform other duties as the Board may direct.

"Sec. 4.4. **Town Clerk.** The Town Manager 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 such other duties as may be required by law or as the Board of Aldermen may direct.

"Sec. 4.5. **Town Finance Officer.** The Town Manager 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. 4.6. **Town Tax Collector.** The Town Manager shall appoint 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 by municipalities.

"Sec. 4.7. **Consolidation of Functions.** The Board of Aldermen may provide for the consolidation of 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.

"Sec. 4.8. **Other Administrative Officers and Employees.** Consistent with applicable State laws, the Board of Aldermen 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.

"ARTICLE V. PUBLIC IMPROVEMENTS.

"Sec. 5.1. Assessments for Street and Sidewalk Improvements: Petition Unnecessary.

(a) In addition to any authority which is now or hereafter may be granted by general law to the town for making street improvements, the Board of Aldermen is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this section.

(b) The Board of Aldermen may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes without the necessity of a petition, upon the finding by the Board as a fact that the street improvement project does not exceed 2,000 linear feet, and:

- (1) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvements;
- (2) That it is in the public interest to connect two streets, or portions of a street already improved; or
- (3) 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 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 Town's thoroughfare or major street plan for the particular street or

part thereof to be widened and improved under the authority granted by this Article.

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

(d) In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total costs thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes; provided however, that regardless of the assessment bases or bases employed, the Board of Aldermen may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

(e) In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

(f) 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 VI. EFFECT ON PRIOR ORDINANCES, RESOLUTIONS AND POLICIES.

"Sec. 6.1. **Acts Not Repealed.** 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 Waynesville; or
- (2) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

"Sec. 6.2. **Acts Repealed.** The acts listed in the current Charter of the Town of Waynesville at Section 3 of Chapter 431 of the Session Laws of 1981 have been repealed as stated therein. Chapter 431 of the Session Laws of 1981 is repealed except for Section 3. Sections 1 and 2 of Chapter 225 of the Session Laws of 1977 are repealed.

"Sec. 6.3. **Affect Upon Rights or Interests.**

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; or

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

"Sec. 6.4. **No Revival of Repealed Laws.** 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 ordinance that disclaims an intention to repeal or affect enumerated or designated laws.

"Sec. 6.5. **Ordinances and Resolutions, Rules and Regulations to Remain in Effect.**

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

"Sec. 6.6. **Severability of Provisions.** 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. 6.7. **Reference to General Statutes.** Whenever a reference is made in this ordinance 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 the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

"Sec. 6.8. **Validation of Previous Board Actions.** All ordinances, resolutions, orders, or actions of any kind taken by the governing body of the Town of Waynesville from and after May 14, 1974, are hereby validated and ratified.

"ARTICLE VII. TRANSITIONAL PROVISIONS.

"Sec. 7.1. **Effective Date of Merger: Status of Governing Bodies.** Subject to the conditions and provisions noted in this Article, the Town of Hazelwood is merged into the Town of Waynesville effective at 12:01 a.m. on July 1, 1995. The governing body for the merged entities will remain the governing body of the Town of Waynesville. The offices of the governing body of the Town of Waynesville will stand for election in November 1995. The terms of office of the governing board of the Town of Hazelwood will cease as of 12:00 midnight on June 30, 1995.

"Sec. 7.2. **Operational Procedures Upon Merger.** Upon the date of merger of the Town of Waynesville and the Town of Hazelwood:

- (1) All property, real and personal and mixed, including accounts receivable, belonging to the Town of Hazelwood shall vest in, belong to, and be the property of the Town of Waynesville. The governing

body of the Town of Hazelwood will take such actions and execute such documents as will carry into effect the provisions and the intent of this section;

- (2) All judgments, liens, rights of liens, and causes of action of any nature in favor of the Town of Hazelwood shall vest in and remain and inure to the benefit of the Town of Waynesville;
- (3) All taxes, assessments, water or sewer charges, and any other charges or fees, owing to the Town of Hazelwood shall be owed to and collected by the Town of Waynesville;
- (4) All actions, suits, and proceedings pending against, or having been instituted by the Town of Hazelwood shall not be abated by the legislative act allowing merger, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if merger had not occurred, and the Town of Waynesville shall be a party to all such actions, suits, and proceedings in the place and stead of the Town of Hazelwood and shall pay or cause to be paid any judgments rendered against the Town of Hazelwood, its governing board and officials acting in their official capacity, in any such actions, suits, or proceedings. No new process need be served in any such action, suit, or proceeding;
- (5) All obligations of the Town of Hazelwood, including outstanding indebtedness, shall be assumed by the Town of Waynesville, and all such obligations and outstanding indebtedness are hereby constituted obligations and indebtedness of the Town of Waynesville, and the financial resources of the Town of Waynesville shall be deemed to be pledged for the punctual payment of all such obligations and indebtedness;
- (6) All ordinances of the Town of Hazelwood shall continue in full force and effect within the area to which they apply until the effective date of merger as ordinances, and after the effective date of merger, the Town of Waynesville ordinances will apply throughout its new corporate limits and where applicable extraterritorial jurisdiction;
- (7) All franchises heretofore granted by the Town of Hazelwood, which are still in force shall continue as valid franchises of the Town of Waynesville for the purposes granted within the area formerly comprising the Town of Hazelwood, but shall not hereby be constituted valid franchises for any other portion of the corporate limits of the Town of Waynesville; and
- (8) The Town of Waynesville shall assume responsibility for all current and future liabilities of the Town of Hazelwood for unemployment insurance benefit charges under G.S. 96-9(f)(1).

"Sec. 7.3. **Handling of Assets/Contracts, Liabilities/Permits in Floodway Until Date of Merger.** Between the dates of October 25, 1994, and July 1, 1995, the Mayor and Board of Aldermen of the Town of Hazelwood shall not:

- (1) Dispose of any real estate, personal property, or other assets without first providing written notice to and securing the written approval of the Mayor and Board of Aldermen of the Town of Waynesville;
- (2) Enter into any contracts or agreements which will extend beyond June 30, 1995, without first providing written notice to and securing the written approval of the Mayor and Board of Aldermen of the Town of Waynesville;
- (3) Incur any debts or liabilities for which funds on hand are not sufficient or accrued revenues for the 1994-95 fiscal year will not be adequate to pay the cost without first providing written notice to and securing the written approval of the Mayor and Board of Aldermen of the Town of Waynesville; or
- (4) Approve or grant any building permit after January 1, 1995, which allows construction in the 'floodway' designated by the Federal Emergency Management Agency, unless said construction will be finished, a final inspection completed, and, if one is required, a Certificate of Occupancy issued by June 30, 1995.

"Sec. 7.4. **Taxation.** All property that had a tax situs in the Town of Hazelwood on January 1, 1995, shall be considered to have a tax situs in the Town of Waynesville for the appropriate fiscal year, and any property properly listed for taxation in the Town of Hazelwood is properly listed for taxation in the Town of Waynesville.

"Sec. 7.5. **Personnel.** The employees of the Town of Hazelwood, hereafter named, will be offered positions with the Town of Waynesville for which they are qualified, with no loss of salary or seniority. Following merger, they shall be entitled to the same rights and fringe benefits as all other employees of the Town of Waynesville in accordance with the personnel regulations approved by the Mayor and Board of Aldermen of the Town of Waynesville.

Janice Shulhofer	Bennie Moody
Gladys Crouser	Tommy Higgins
Kenneth Hampton	Billy Luther
G. Thomas Sutton	Hank Ruff
Brian Buchanan	Ralph Moody

The Mayor and Board of Aldermen of the Town of Hazelwood shall not hire any person other than those listed above for a period which will extend beyond June 30, 1995; however, the Town of Waynesville will consider the qualifications of any such employee in filling vacancies in their workforce which exist after merger.

The Mayor and Board of Aldermen of the Town of Hazelwood shall not grant a pay increase to any employee named in this section unless such an increase is in accordance with the personnel policies of the Town of Hazelwood and only if adequate funds are provided in the Town's budget for that purpose. The Town of Waynesville shall not otherwise be responsible for any personnel increase granted by the Town of Hazelwood after October 25, 1994.

"Sec. 7.6. **Hazelwood Town Hall.** The Town of Waynesville will continue to use the existing Hazelwood Town Hall for purposes which benefit the citizens of the

merged town, including, but not limited to, the operation of a business office and drive-up window. The Waynesville Fire Department will establish and operate a fire substation at that location, providing equipment and personnel to staff the facility at the level consistent with budgetary limitations.

"Sec. 7.7. **Renaming of Streets/Recreational Facilities.** The Mayor and Board of Aldermen of the Town of Hazelwood will rename those Hazelwood streets carrying the same name as streets within the Town of Waynesville, and what is presently Main Street in Hazelwood will become 'Hazelwood Avenue'.

The Hazelwood Recreation Park will retain its name, as will the 'C. L. "Dutch" Fisher Memorial Ball Field', which is located at that park.

The Town of Waynesville will encourage the perpetuation of a sense of community and the use of the name 'Hazelwood' where appropriate.

"Sec. 7.8. **Building Permits.** For all building permits issued in the Town of Hazelwood prior to July 1, 1995, and which are not in conflict with subdivision 7.3(4) of this Article, the Haywood County Building Inspections Department will complete the inspections on the work permitted. Work which commences on or after July 1, 1995, for which any type of permits is required, shall be under the Waynesville Building Inspections Department."

Sec. 2. This act becomes effective July 1, 1995.

In the General Assembly read three times and ratified this the 30th day of May, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives