

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-188
SENATE BILL 335**

AN ACT AMENDING THE CHARTER OF THE TOWN OF CORNELIUS TO
ALLOW THE BOARD OF COMMISSIONERS TO REMOVE MEMBERS FOR
CAUSE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.3 of the Charter of the Town of Cornelius, being Chapter 288 of the 1971 Session Laws, as amended by Town Ordinance No. 2002-00266, adopted pursuant to G.S. 160A-101, reads as rewritten:

"Sec. 3.3. Terms; Qualifications; Vacancies. (a) The Mayor shall serve for a term of four years and members of the Board of Commissioners shall serve for terms of four years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this ~~Charter; provided, they shall serve until their successors are elected and qualify.~~ Charter. The Mayor and Commissioners shall serve until: (i) their successors are elected and qualified; (ii) they resign; (iii) they become ineligible to hold office; or (iv) they are removed from office in accordance with subsection (b1) of this section.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Commissioners or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(b1) The Mayor and Commissioners shall be expected and required to attend all regular meetings of the Board of Commissioners except for occasional, unavoidable conflicts. However, the Mayor and Commissioners shall attend at least sixty percent (60%) of all regular Board meetings calculated on a rolling 12-month basis. Participation in a meeting by phone that has been approved pursuant to Board policy shall be counted as being absent under this section, although the participation may be considered as being in attendance for other purposes. Upon receipt of a complaint alleging a violation under this section, the Board shall call a hearing on the matter. The person to be proceeded against shall have at least 10 days' notice in writing of the motion to remove him, accompanied by a copy of the charges alleged as the grounds for the proposed removal. He shall have the right to be heard in person or by counsel in his defense. At the hearing, the Board may also hear from members of the public. Upon finding by a preponderance of the evidence that a violation has occurred, the Board may, by a majority vote, remove the Mayor or Commissioner from office or impose a lesser sanction, including censure or reprimand. The accused Mayor or Commissioner may vote in a proceeding only in the case of a tie.

(b2) The Mayor or a Commissioner shall not be considered absent from a regular meeting of the Board of Commissioners if the Mayor's or Commissioner's failure to attend is due to any of the following reasons:

- (1) Personal illness or the illness or death of an immediate family member (spouse, children, grandchildren, parents, grandparents, or siblings).
- (2) Military service.
- (3) Activities necessary to the performance of the official duties of the Mayor or Commissioner.

The burden shall be on the Mayor or Commissioner to present documentation in a hearing held pursuant to subsection (b1) of this section that supports an authorized reason for nonattendance.

(c) In the event a vacancy occurs in the office of Mayor or Commissioner, the Board of Commissioners shall ~~by majority vote~~ appoint some qualified person to fill the same ~~for the remainder of the unexpired term~~ in accordance with G.S. 160A-63.

(d) In the case of a conflict between this section and any other provision of this Charter, a Town ordinance, or other statute or common law, this section shall prevail to the extent of the conflict."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives