

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 789

Short Title: Gastonia Charter Revised.

(Local)

Sponsors: Representative Abernethy.

Referred to: Local and Regional Government II.

April 15, 1991

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

"THE CHARTER OF THE CITY OF GASTONIA.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The City of Gastonia, North Carolina in Gaston County and its inhabitants shall continue to be a municipal body politic and corporate, under the name of the 'City of Gastonia,' hereinafter also referred to as the 'City.'

"Sec. 1.2. **Powers.** The City has and may exercise all of the powers, duties, rights, privileges and immunities conferred upon the City of Gastonia 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, is maintained permanently in the office of the City Clerk and is available for public inspection. Within a reasonable time upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map shall be made and copies of the changes shall be filed in the office of the Secretary of State, the Gaston County Register of Deeds and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

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

4 "Sec. 2.2. **City Council Composition; Terms of Office.** The Council is composed
5 of six members who reside in the respective wards as provided in Article III of this
6 Charter, but who are elected by all the qualified voters of the City for terms of four
7 years or until their successors are elected and qualified.

8 "Sec. 2.3. **Mayor; Term of Office; Duties.** The Mayor is elected by all the
9 qualified voters of the City for a term of two years or until a successor is elected and
10 qualified. The Mayor is the official head of the City government and presides at
11 meetings of the Council, has the right to vote on all matters before the Council, but is
12 not required to vote except when the Mayor's vote is necessary for determinative action,
13 to break a tie. The Mayor exercises powers and duties conferred by law or as directed
14 by the Council. Failure of the Mayor to vote when present, or when the Mayor has not
15 been excused, on any such matters when the Mayor's vote is required by this section, is
16 deemed an affirmative vote and shall be so recorded.

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

21 "Sec. 2.5. **Meetings.** In accordance with general law, the Council shall establish a
22 suitable time and place for its regular meetings. Special and emergency meetings may
23 be held as provided by general law.

24 "Sec. 2.6. **Voting Requirements; Quorum.** Unless otherwise stated herein,
25 official actions of the Council and all votes are taken in accordance with the applicable
26 provisions of general law, particularly G.S. 160A-75. Voting on zoning matters subject
27 to a protest petition is as provided in Section 9.4. A quorum is as provided in G.S.
28 160A-74.

29 "Sec. 2.7. **Compensation; Qualifications for Office; Vacancies.** The
30 compensation and qualifications of the Mayor and Council are in accordance with
31 general law. Vacancies that occur in any elective office of the City are filled as
32 provided in G.S. 160A-63.

"ARTICLE III. ELECTIONS.

34 "Sec. 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held
35 in each odd-numbered year in accordance with the uniform municipal election laws of
36 North Carolina. Elections are conducted on a nonpartisan basis and the results
37 determined using the nonpartisan plurality method as provided in G.S. 163-292. For
38 purpose of election of Council members, the City is divided into six geographical
39 subdivisions known as wards, provided that all qualified voters of the City may cast a
40 vote for each seat. The wards are numbered from one to six, and are as shown on the
41 existing official map of the City or of the election wards, as they may be revised from
42 time to time.

43 "Sec. 3.2. **Election of Council.** Effective as of the 1991 election, the three Council
44 members elected from the three even-numbered wards of the City (Wards 2, 4 and 6)

1 shall serve for terms of four years; and effective as of the 1993 election and thereafter,
2 with the exception of elections to fill vacancies under G.S. 160A-63, all Council
3 members elected shall serve for terms of four years. Each Council member shall be a
4 resident of the ward he or she represents.

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

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

10 **"ARTICLE IV. ORGANIZATION AND ADMINISTRATION, CITY**
11 **MANAGER.**

12 "Sec. 4.1. **Form of Government.** The City operates under the council-manager
13 form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the
14 General Statutes.

15 "Sec. 4.2. **City Manager.** The Council appoints a City Manager who is responsible
16 for the administration of all departments of the City government. The City Manager has
17 all the powers and duties conferred by general law, except as expressly limited by the
18 provisions of this Charter, and the additional powers and duties conferred by the
19 Council, so far as authorized by general law.

20 "Sec. 4.3. **Approval and Execution of Contracts.** The Council may adopt an
21 ordinance that delegates to the City Manager the authority to award, approve and
22 execute certain contracts on behalf of the City. This authority of the City Manager to
23 award, approve and execute certain contracts shall be subject to the terms, conditions
24 and limitations as set forth by the Council in the ordinance, and the ordinance shall
25 require that all contracts awarded, approved and executed pursuant to that authority be
26 reported by the City Manager to the Council in a timely manner. The types of contracts
27 that may be approved by the City Manager under an ordinance adopted pursuant to this
28 section may include:

- 29 (1) Contracts for the purchase of apparatus, supplies, materials or
30 equipment and construction or repair work, provided that the City
31 Council has approved a sufficient appropriation in the annual budget
32 for the current fiscal year for the purposes specified under the contract,
33 that the contract has been reviewed and approved by the City Attorney,
34 and provided that the contract amount does not exceed the monetary
35 amount at which formal bidding procedures are required under Chapter
36 143 of the General Statutes.
- 37 (2) Contracts for services or other matters that do not concern construction
38 or repair work or the purchase of apparatus, supplies, materials or
39 equipment, provided that the City Council has approved a sufficient
40 appropriation in the annual budget for the current fiscal year for the
41 purposes specified under the contract, that the contract has been
42 reviewed and approved by the City Attorney, and provided that the
43 contract amount does not exceed the monetary amount set forth by the
44 Council in the ordinance.

1 (3) Contracts that do not involve the expenditure of funds, provided that
2 the purposes specified under the contract are necessary for or
3 incidental to carrying out the routine affairs or business of the City and
4 do not involve policy making decisions that are solely within the realm
5 of Council's authority, and that the contract has been reviewed and
6 approved by the City Attorney.

7 "Sec. 4.4. **Settlement of Claims.** The City Manager may, upon written
8 recommendation of the City Attorney, execute releases of persons, firms and
9 corporations for damages to personal property belonging to the City, when the full
10 amount of damages to the property has been ascertained and that amount has been paid
11 in full to the City.

12 The Council may adopt an ordinance that delegates to the City Manager the
13 authority, upon written recommendation from the City Attorney, to approve settlements
14 on behalf of the City in all claims or lawsuits of any kind or nature involving the City,
15 including land condemnation lawsuits, and to execute any and all documents necessary
16 for the settlement of those claims or lawsuits, when the monetary amount involved does
17 not exceed an amount set forth by the Council in the ordinance. All such settlements
18 shall be reported to the City Council in a timely manner and shall be subject to the
19 applicable provisions of the Public Records law as set forth in Chapter 132 of the
20 General Statutes.

21 **"ARTICLE V. OTHER OFFICES AND POSITIONS.**

22 "Sec. 5.1. **City Attorney.** The Council shall appoint a City Attorney licensed to
23 practice law in North Carolina. It is the duty of the City Attorney to represent the City,
24 advise City officials and perform other duties required by law or as the Council may
25 direct. The Council may appoint or provide for one or more associate or assistant city
26 attorneys who shall receive such compensation as may be fixed by the Council and who
27 shall have full authority to exercise and perform any of the powers and duties of the
28 City Attorney that may be specified by the Council or the City Attorney.

29 "Sec. 5.2. **City Clerk.** The Council shall appoint a City Clerk to keep a journal of
30 the proceedings of the Council, to maintain official records and documents, to give
31 notice of meetings, and to perform such other duties required by law or as the City
32 Manager may direct.

33 "Sec. 5.3. **Tax Collector.** The Council shall appoint a Tax Collector pursuant to
34 G.S. 105-349 to collect all taxes owed to the City, subject to general law, this Charter
35 and City ordinances.

36 "Sec. 5.4. **Other Administrative Officers and Employees.** The Council may
37 authorize other positions to be filled by appointment by the City Manager, and may
38 organize the City government as deemed appropriate, subject to the requirements of
39 general law.

40 **"ARTICLE VI. PUBLIC IMPROVEMENTS.**

41 "Sec. 6.1. Authority to Grant Special Assessment Exceptions.

42 (a) In addition to the authority granted by Article 10 of Chapter 160A of the
43 General Statutes, the Council may order, that a special assessment, for property that is

1 not suitable for improvement by construction of a building, shall be held in abeyance for
2 a period not to exceed 10 years.

3 (b) In order to have property considered for an order of abeyance under this
4 section, the owner shall submit to the City Clerk, not later than the day of the public
5 hearing on the preliminary resolution adopted under G.S. 160A-223, an application on a
6 form supplied by the City. The Council may provide for an appropriate application fee.
7 The application shall describe the property adequately and specify the physical
8 characteristics or ordinance provisions that make the property unbuildable. The Council
9 shall schedule a public hearing, and shall provide notice of the hearing and its purpose
10 to the other owners of the property subject to special assessment for the project by first
11 class mail not less seven days before the hearing. City staff members may investigate
12 the application.

13 (c) At the hearing the owner of the property under consideration, the owners of
14 other properties subject to assessment for the project, and city staff may submit
15 evidence. The Council shall consider the evidence and make findings of fact.

16 (d) If the Council concludes, based on its findings of fact, that the property is
17 suitable for improvement by construction of a building, it shall order the special
18 assessment to be levied and paid. If the Council concludes that the property is not
19 suitable for improvement by construction of a building, it shall order the special
20 assessment for the property to be held in abeyance for a period not to exceed 10 years.
21 If at the end of the period no building permit has been obtained and no building
22 constructed and, in the case of assessment for water or sewer improvements, no water or
23 sewer tap has been required or applied for, the owner shall be relieved permanently of
24 the obligation to pay. If during the period a building permit is issued or a building
25 constructed, or in the case of an assessment for water or sewer improvements, a water or
26 sewer tap is required or applied for, the owner shall become liable for payment under
27 the original terms of the special assessment. The City may collect the assessment using
28 the remedies available by law, and all applicable statutes of limitation shall be
29 suspended during the time that any assessment is held in abeyance under this section.

30 (e) If the owner of the property under consideration, or the owners of other
31 properties subject to assessment for the project, are dissatisfied with the action of the
32 Council under this section, the owner may file a notice of appeal to the appropriate
33 division of the General Court of Justice as provided by G.S. 160A-230.

34 "Sec. 6.2. **Assessment Against Petitioned Properties.** The Council may order the
35 making of any local improvement and assess the cost thereof, except the City's portion,
36 if any, against only a limited number of abutting properties if the owners of those
37 properties submit a petition asking that the improvement be made and that the total
38 amount to be assessed for the improvement be assessed only against their properties.

39 "Sec. 6.3. **Assessments Without Petitions.** If, in the Council's judgment, which
40 shall be conclusive, the abutting property to be assessed will be benefited in an amount
41 at least equal to the assessment, the Council may order the making of any local
42 improvement without the necessity of a petition and may assess the cost thereof against
43 abutting properties in the following cases:

1 (a) When any street or part of a street is unsafe; or the improvement of a street or
2 part of a street not more than three blocks in length is necessary to connect streets
3 already paved; or the improvement of a street or part of a street is necessary to connect a
4 paved street, or portion thereof, with a paved highway; or the improvement of a street or
5 part of a street is necessary to provide a paved approach to a railroad, street grade
6 separation or a bridge; or the widening of any street or part of a street is necessary to
7 accommodate present and anticipated volumes of traffic.

8 (b) When any street or part of a street, or any property, is without storm sewer or
9 other surface drainage improvements, and storm sewer or other surface drainage should
10 be provided in the public interest.

11 (c) When any street or part of a street is without sidewalks and sidewalks should
12 be provided in the public interest.

13 "Sec. 6.4. **Sidewalk and Driveway Repair.** If the Council determines that the
14 public interest requires repair of a sidewalk or portion of a driveway within the public
15 right-of-way, the Council may order the making of a repair and assess the total cost
16 against the property abutting the sidewalk or driveway repaired. Before an assessment
17 may be made for the repair, at least 30 days' written notice shall be given to the abutting
18 property owner personally or by registered or certified mail to the owner's last known
19 address or the owners's address as shown on the tax records. The notice shall state that
20 the owner is required to make the repair at his own expense in conformity with the
21 sidewalk standards adopted by the city, and that if he shall fail to make the repair within
22 30 days after notice is served, the city thereupon may make the repair and assess the
23 cost. If the Council finds that any sidewalk or driveway is in need of immediate repair,
24 the Council may adopt a resolution setting out its finding and directing that the repair be
25 made immediately and that the cost be assessed against the abutting property without
26 prior notice to the property owner affected.

27 "Sec. 6.5. **Planting Strip and Driveway Maintenance.** It is the responsibility of
28 the abutting property owner to maintain any property or driveway between the property
29 line and the curb of a paved street.

30 "ARTICLE VII. HOUSING MATTERS.

31 "Sec. 7.1. **Gastonia Fair Housing Act.** The Gastonia Fair Housing Act shall
32 continue as authorized by Chapter 902, Session Laws of 1985, as amended by Chapter
33 931, Session Laws of 1987; and Chapter 510, Session Laws of 1989.

34 "Sec. 7.2. **Housing Code Lis Pendens.** The city is authorized to file housing code
35 complaints, notices and orders in **lis pendens**, as authorized by Chapter 221, Session
36 Laws of 1987, as amended by Chapter 418, Session Laws of 1989.

37 "ARTICLE VIII. RETIREMENT.

38 "Sec. 8.1. **Gastonia Firemen's Supplemental Retirement Fund.** The Gastonia
39 Firemen's Supplemental Retirement Fund shall continue as authorized by Chapter 537,
40 Session Laws of 1949, as amended by Chapter 111, Session Laws of 1957; Chapter 51,
41 Session Laws of 1975; and Chapter 1016, Session Laws of 1983 (Reg. Sess. 1984).

42 "Sec. 8.2. **Gastonia Policemen's Supplemental Retirement Fund.** The Gastonia
43 Policemen's Supplemental Retirement Fund shall continue as authorized by Chapter
44 946, Session Laws of 1955, as amended by Chapter 112, Session Laws of 1957; Chapter

1 301, Session Laws of 1959; Chapter 979, Session Laws of 1965; and Chapter 809,
2 Session Laws of 1983.

3 **"ARTICLE IX. ADDITIONAL PROVISIONS.**

4 "Sec. 9.1. **Public Enterprise User Fees and Charges.** Notwithstanding the
5 provisions of G.S. 160A-314, or any other provision of law, in case any charges for
6 utility service or for the use of utility facilities, or solid waste collection or disposal due
7 and owing to the City are not paid within 10 days after they become due, then such
8 charges and any penalties assessed for nonpayment shall become a lien upon the
9 property served or in connection with which the service or facility is used and upon all
10 personal property situated upon such real property, as originally authorized by Chapter
11 910, Session Laws of 1971. The charge may at any time thereafter be collected, either
12 by suit in the name of the City or by the City Tax Collector, through the sale of the
13 property upon which the lien attaches at the Gaston County courthouse door, after
14 advertising the sale once a week for four successive weeks in a newspaper of general
15 circulation in the City which is qualified to carry legal notices. The sale shall be made
16 under the same rules and regulations, and subject to the same costs and penalties and to
17 the same rights of redemption as are provided by law for the foreclosure of the lien on
18 personal property and on real estate for taxes.

19 "Sec. 9.2. **Alcoholic Beverages.** The City of Gastonia Board of Alcoholic
20 Beverage Control shall consist of five members appointed for three-year overlapping
21 terms as originally authorized by Chapter 910, Session Laws of 1971, before the
22 effective date of Chapter 18B of the General Statutes. Otherwise, the City of Gastonia
23 Board of Alcoholic Beverage Control shall be subject to the provisions of Article 7 of
24 Chapter 18B of the General Statutes of North Carolina.

25 "Sec. 9.3. **Gastonia Airport Authority.** The Gastonia Airport Authority shall
26 continue as authorized by Chapter 648, Session Laws of 1981, as amended by Chapter
27 1158, Session Laws of 1981; and Chapter 945, Session Laws of 1983.

28 "Sec. 9.4. **Zoning Protest Petition Voting.** For purposes of the vote of the Council
29 that may be required for a zoning change under G.S. 160A-385, the requirement shall be
30 three-fourths of all the members of the Council not excused from voting, as originally
31 authorized by Chapter 910, Session Laws of 1971.

32 "Sec. 9.5. **Motor Vehicle Tax.** For purposes of the municipal motor vehicle tax
33 authorized by G.S. 20-97(a), the Council may levy not more than fifteen dollars
34 (\$15.00) per year upon any vehicle, as originally authorized by Chapter 1016, Session
35 Laws of 1989.

36 "Sec. 9.6. **Lease of City Property.** As originally authorized by Chapter 910,
37 Session Laws of 1971, notwithstanding the provisions of G.S. 160A-272, the Council
38 may lease property owned by the City for a period not to exceed 15 years without
39 following the procedures authorized for the sale of real property.

40 "Sec. 9.7. **Rewards for Conviction of Certain Offenses.** As originally authorized
41 by Chapter 910, Session Laws of 1971, the Council may offer and pay rewards for the
42 conviction of any person or persons alleged to have committed criminal offenses that, in
43 the judgment of the Council, involve serious danger to the public peace or public safety.
44 The Council shall fix the terms, conditions and amounts of such rewards. Rewards shall

1 be paid only by order of the Council from nontax revenues in the general fund of the
2 City; and the Council shall, in its discretion, determine who shall be entitled to the
3 collection of any reward. In addition, the Council may allocate funds from nontax
4 revenues in the general fund for the payment of informant's fees concerning such
5 criminal offenses.

6 "Sec. 9.8. **Building Setback Lines.** In addition to the authority granted by G.S.
7 160A-306, the Council may exercise authority under that section within the
8 extraterritorial jurisdiction of the City.

9 "Sec. 9.9. **Organization, Operation, and Dissolution of Municipal Bodies.** The
10 Council shall have the authority to provide for the organization, operation, and
11 dissolution of all governmental bodies of the City, except as limited by law.

12 "Sec. 9.10. **Annexation Agreements.** In addition to the authority contained in
13 general law, the City may enter into annexation agreements with other municipalities as
14 authorized by Chapter 204, Session Laws of 1987. To that end, the two shall be
15 considered concurrent sources of authority."

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

21 Sec. 3. This act does not repeal or affect any acts validating official actions,
22 proceedings, contracts, or obligations of any kind, including:

23	Chapter 874,	Session Laws of 1955
24	Chapter 164,	Session Laws of 1957
25	Chapter 172,	Session Laws of 1979
26	Chapter 610,	Session Laws of 1989.

27 Sec. 4. (a) All local acts concerning the City of Gastonia that were ratified
28 before July 19, 1971, are repealed, with the exception of acts affecting conveyance of
29 property, acts relating to policemen and firemen supplemental pension funds and other
30 acts listed in subsection (b). The following acts, having served the purposes for which
31 they were enacted or having been consolidated into this act, are expressly repealed:

32	Chapter 910,	Session Laws of 1971, except
33		for Section 2
34	Chapter 925,	Session Laws of 1973
35	Chapter 1101,	Session Laws of 1973
36	Chapter 1187,	Session Laws of 1973
37	Chapter 778,	Session Laws of 1975
38	Chapter 1149,	Session Laws of 1977
39	Chapter 176,	Session Laws of 1983
40	Chapter 1016,	Session Laws of 1989.

41 (b) The following acts are not repealed by this act and continue in effect:

42	Chapter 537,	Session Laws of 1949
43	Chapter 946,	Session Laws of 1955
44	Chapter 111,	Session Laws of 1957

1	Chapter 112,	Session Laws of 1957
2	Chapter 301,	Session Laws of 1959
3	Chapter 979,	Session Laws of 1965
4	Chapter 51,	Session Laws of 1975
5	Chapter 648,	Session Laws of 1981
6	Chapter 1158,	Session Laws of 1981
7	Chapter 809,	Session Laws of 1983
8	Chapter 945,	Session Laws of 1983
9	Chapter 1016,	Session Laws of 1983
10	Chapter 902,	Session Laws of 1985
11	Chapter 221,	Session Laws of 1987
12	Chapter 931,	Session Laws of 1987
13	Chapter 1038,	Session Laws of 1987
14	Chapter 510,	Session Laws of 1989
15	Chapter 418,	Session Laws of 1989.

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

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

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

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

28 Sec. 9. If any provision or application of this act is held invalid, such
29 invalidity shall not affect other provisions or applications of this act which can be given
30 effect without the invalid provision or application, and to this end the provisions of this
31 act are declared to be severable.

32 Sec. 10. Whenever a reference is made in this act to a particular provision of
33 the General Statutes, and such provision is later amended, superseded, or recodified, the
34 reference shall be deemed amended to refer to the amended General Statute, or to the
35 General Statute which most clearly corresponds to the statutory provision which is
36 superseded or recodified.

37 Sec. 11. This act is effective upon ratification.