

GENERAL ASSEMBLY OF NORTH CAROLINA  
1991 SESSION

CHAPTER 557  
HOUSE BILL 789

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.

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

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

"Sec. 2.3. **Mayor; Term of Office; Duties.** The Mayor is elected by all the qualified voters of the City for a term of two years or until a successor is elected and qualified. The Mayor is the official head of the City government and presides at meetings of the Council, has the right to vote on all matters before the Council, but is not required to vote except when the Mayor's vote is necessary for determinative action. The Mayor exercises powers and duties conferred by law or as directed by the Council.

Failure of the Mayor to vote when present, or when the Mayor has not been excused, on any such matters when the Mayor's vote is required by this section, is deemed an affirmative vote and shall be so recorded.

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

"Sec. 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.

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

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

#### "ARTICLE III. ELECTIONS.

"Sec. 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 are conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292. For purpose of election of Council members, the City is divided into six geographical subdivisions known as wards, provided that all qualified voters of the City may cast a vote for each seat. The wards are numbered from one to six, and are as shown on the existing official map of the City or of the election wards, as they may be revised from time to time.

"Sec. 3.2. **Election of Council.** With the exception of elections to fill vacancies under G.S. 160A-63, all Council members elected shall serve for terms of four years. Each Council member shall be a resident of the ward he or she represents.

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

"Sec. 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, CITY MANAGER.

"Sec. 4.1. **Form of Government.** The City operates 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. **City Manager.** The Council appoints a City Manager who is responsible for the administration of all departments of the City government. The City Manager has all the powers and duties conferred by general law, except as expressly limited by the

provisions of this Charter, and the additional powers and duties conferred by the Council, so far as authorized by general law.

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

- (1) Contracts for the purchase of apparatus, supplies, materials or equipment, and construction or repair work, provided that the City Council has approved a sufficient appropriation in the annual budget for the current fiscal year for the purposes specified under the contract, that the contract has been reviewed and approved by the City Attorney, and provided that the contract amount does not exceed the monetary amount at which formal bidding procedures are required under Chapter 143 of the General Statutes.
- (2) Contracts for services or other matters that do not concern construction or repair work or the purchase of apparatus, supplies, materials, or equipment, provided that the City Council has approved a sufficient appropriation in the annual budget for the current fiscal year for the purposes specified under the contract, that the contract has been reviewed and approved by the City Attorney, and provided that the contract amount does not exceed the monetary amount set forth by the Council in the ordinance.
- (3) Contracts that do not involve the expenditure of funds, provided that the purposes specified under the contract are necessary for or incidental to carrying out the routine affairs or business of the City and do not involve policy-making decisions that are solely within the realm of the Council's authority, and that the contract has been reviewed and approved by the City Attorney.

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

The Council may adopt an ordinance that delegates to the City Manager the authority, upon written recommendation from the City Attorney, to approve settlements on behalf of the City in all claims or lawsuits of any kind or nature involving the City, including land condemnation lawsuits, and to execute any and all documents necessary for the settlement of those claims or lawsuits, when the monetary amount involved does not exceed an amount set forth by the Council in the ordinance. All such settlements

shall be reported to the City Council in a timely manner and shall be subject to the applicable provisions of the Public Records law as set forth in Chapter 132 of the General Statutes.

"ARTICLE V. OTHER OFFICES AND POSITIONS.

"Sec. 5.1. **City Attorney.** The Council shall appoint a City Attorney licensed to practice law in North Carolina. It is 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. The Council may appoint or provide for one or more associate or assistant city attorneys who shall receive such compensation as may be fixed by the Council and who shall have full authority to exercise and perform any of the powers and duties of the City Attorney that may be specified by the Council or the City Attorney.

"Sec. 5.2. **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 City Manager may direct.

"Sec. 5.3. **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.

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

"ARTICLE VI. PUBLIC IMPROVEMENTS.

"Sec. 6.1. Authority to Waive Special Assessments.

(a) In addition to the authority granted by Article 10 of Chapter 160A of the General Statutes, the Council may order that a special assessment be waived upon a determination that the property subject to the assessment will not be benefited by a local improvement. In the case of assessments for water and sewer improvements, examples of nonbenefited property may include property that is nonbuildable due to topography or applicable zoning or building requirements (lot size, setbacks, etc.), property that has access to existing City water or sewer facilities on or abutting the property, and property that is currently served by existing City water or sewer facilities.

In order to have property considered for a waiver under this section, the owner shall submit to the City Clerk, not later than the time of the public hearing on the preliminary resolution adopted under G.S. 160A-223, an application on a form supplied by the City. The Council may provide for an appropriate application fee. The application shall describe the property adequately and specify the reasons the property would not be benefited by the local improvement. The Council shall schedule a public hearing, and shall provide notice of the hearing and its purpose to the other owners of property subject to special assessment for the project by first class mail not less than seven days before the hearing. City staff members may investigate the application.

At the hearing, the owner of the property under consideration, the owners of other properties subject to assessment for the project, and City staff, may submit evidence. The Council shall consider the evidence and make findings of fact.

If the Council concludes, based on its finding of fact, that the property will be benefited by the local improvement, it shall order that the request for waiver be denied. If the Council concludes that the property will not be benefited by the local improvement, it shall order the special assessment for the property to be waived. If a waiver is granted the property shall thereafter be listed on the assessment roll but shall be specified as exempt, and the assessment roll shall include a brief description of the reason for the waiver.

If the owner of the property under consideration, or the owners of any other properties subject to assessment for the project, are dissatisfied with the action of the Council under this section, a notice of appeal may be filed to the appropriate division of the General Court of Justice as provided by G.S. 160A-230.

(b) In addition to the authority granted by Article 10 of Chapter 160A of the General Statutes, the Council may order that a special assessment be waived if the property subject to the assessment is owned by (i) the State, or any board, agency, commission, or institution thereof; (ii) a local government or any unit thereof; or (iii) a school board. Such waivers shall be ordered in accordance with the procedure set forth in paragraph (a) of this section.

(c) If a special assessment project requires a petition signed by a majority of the affected property owners who must also represent a majority of the frontage abutting the project, the Council may exclude, in determining the number of property owners or the amount of frontage, any property that has been waived from special assessment under this section.

(d) The authority granted to the Council by this section shall apply retroactively to all special assessment projects for which the assessment roll has not been confirmed on the effective date of the act establishing this authority, provided that the public hearing on any request for waiver is held prior to confirmation of the assessment roll for the project. Such waivers shall be ordered in accordance with the procedure set forth in paragraph (a) of this section, except that the deadline for submitting the application shall be no later than the day of the public hearing on the preliminary assessment roll adopted under G.S. 160A-227.

"Sec. 6.2. Assessment Against Petitioned Properties.

(a) Upon receipt of a petition from one or more owners of abutting property where fifty percent (50%) or more of the total street frontage is in single ownership, the Council may order the making of any local improvement. The Council may assess the cost thereof against the abutting property in the same manner and following the same procedure established by general law for making special assessments against property benefited by local improvements.

(b) The Council may order the making of any local improvement and assess the cost thereof, except the City's portion, if any, against only a limited number of abutting properties if the owners of those properties submit a petition asking that the improvement be made and that the total amount to be assessed for the improvement be assessed only against their properties.

"Sec. 6.3. Authority to Order Street and Sidewalk Assessments Without Petition.

If, in the Council's judgment, which shall be conclusive, the abutting property to be assessed will be benefited in an amount at least equal to the assessment, the Council may order the making of the local improvement without the necessity of a petition and may assess the cost thereof against the abutting properties in the following cases:

- (1) When any street or part of a street is unsafe; or the improvement of a street or part of a street not more than three blocks in length (or 1500 linear feet, whichever is less) is necessary to connect streets already paved; or the improvement of a street or part of a street is necessary to connect a paved street, or portion thereof, with a paved highway; or the improvement of a street or part of a street is necessary to provide a paved approach to a railroad, street grade separation, or a bridge; or the widening of any street or part of a street is necessary to accommodate present and anticipated volumes of traffic.
- (2) When any street or part of a street, or any property, is without storm sewer or other surface drainage improvements, and storm sewer or other surface drainage should be provided in the public interest.
- (3) When any street or part of a street is without sidewalks and sidewalks should be provided in the public interest.

"Sec. 6.4. Special Assessment Exemptions for Corner Lots.

(a) The Council may establish schedules of exemptions from assessments for corner lots when a local improvement project is undertaken along either or both sides of such lots. The schedules of exemptions shall be established in accordance with Article 10 of Chapter 160A of the General Statutes.

(b) Once an exemption from assessment has been applied to a corner lot under a local improvement project, such lot shall not be subject to further assessment under a separate local improvement project for the same type of improvement, unless the lot has been subsequently divided, in which case the new lot(s) shall be subject to assessment.

"Sec. 6.5. Other Special Assessments.

(a) When a special assessment is made on the basis of the frontage abutting the improvement, and the property subject to the assessment is currently used for single family residential purposes, the Council may exempt such property from assessment for the amount of frontage in excess of two hundred feet (200').

(b) When a special assessment is made on the basis of the frontage abutting the improvement, and the property subject to the assessment is currently used for single family residential purposes, the Council may assess such property for forty feet (40') of frontage even if the actual frontage of the property is less than forty feet (40').

"Sec. 6.6. Sidewalk and Driveway Repair.

If the Council determines that the public interest requires repair of a sidewalk or portion of a driveway within the street right-of-way, the Council may order the making of a repair and assess the total cost against the property abutting the sidewalk or driveway repaired. Before an assessment may be made for the repair, at least 30 days' written notice shall be given to the abutting property owner personally or by registered or certified mail to the owner's last known address or the owner's address as shown on the tax records. The notice shall state that the owner is required to make the repair at

his own expense in conformity with City standards and specifications, and that if he shall fail to make the repair within 30 days after notice is served, the City thereupon may make the repair and assess the cost. If the Council finds that any sidewalk or driveway is in need of immediate repair, the Council may adopt a resolution setting out its finding and directing that the repair be made immediately and that the cost be assessed against the abutting property without prior notice to the property owner affected.

"Sec. 6.7. **Planting Strip and Driveway Maintenance.**

It is the responsibility of the abutting property owner to maintain any property or driveway between the property line and the edge of the pavement or the curb of a paved street.

#### "ARTICLE VII. HOUSING MATTERS.

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

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

#### "ARTICLE VIII. RETIREMENT.

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

"Sec. 8.2. **Gastonia Policemen's Supplemental Retirement Fund.** The Gastonia Policemen's Supplemental Retirement Fund shall continue as authorized by Chapter 946, Session Laws of 1955, as amended by Chapter 112, Session Laws of 1957; Chapter 301, Session Laws of 1959; Chapter 979, Session Laws of 1965; and Chapter 809, Session Laws of 1983.

#### "ARTICLE IX. ADDITIONAL PROVISIONS.

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

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

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

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

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

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

"Sec. 9.7. **Rewards for Conviction of Certain Offenses.** As originally authorized by Chapter 910, Session Laws of 1971, the Council may offer and pay rewards for the conviction of any person or persons alleged to have committed criminal offenses that, in the judgment of the Council, involve serious danger to the public peace or public safety. The Council shall fix the terms, conditions, and amounts of such rewards. Rewards shall be paid only by order of the Council from nontax revenues in the general fund of the City; and the Council shall, in its discretion, determine who shall be entitled to the collection of any reward. In addition, the Council may allocate funds from nontax revenues in the general fund for the payment of informant's fees concerning such criminal offenses.

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

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

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

Sec. 2. The purpose of this act is to revise the Charter of the City of Gastonia 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 validating official actions, proceedings, contracts, or obligations of any kind, including:

Chapter 874,	Session Laws of 1955
Chapter 164,	Session Laws of 1957
Chapter 172,	Session Laws of 1979
Chapter 610,	Session Laws of 1989.

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

Chapter 910,	Session Laws of 1971, except for Section 2
Chapter 925,	Session Laws of 1973
Chapter 1101,	Session Laws of 1973
Chapter 1187,	Session Laws of 1973
Chapter 778,	Session Laws of 1975
Chapter 1149,	Session Laws of 1977
Chapter 176,	Session Laws of 1983
Chapter 1016,	Session Laws of 1989.

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

Chapter 537,	Session Laws of 1949
Chapter 946,	Session Laws of 1955
Chapter 111,	Session Laws of 1957
Chapter 112,	Session Laws of 1957
Chapter 301,	Session Laws of 1959
Chapter 979,	Session Laws of 1965
Chapter 51,	Session Laws of 1975
Chapter 648,	Session Laws of 1981
Chapter 1158,	Session Laws of 1981
Chapter 809,	Session Laws of 1983
Chapter 945,	Session Laws of 1983
Chapter 1016,	Session Laws of 1983
Chapter 902,	Session Laws of 1985
Chapter 221,	Session Laws of 1987
Chapter 931,	Session Laws of 1987
Chapter 1038,	Session Laws of 1987
Chapter 510,	Session Laws of 1989
Chapter 418,	Session Laws of 1989.

Sec. 5. The Mayor and Council members serving on the date of ratification of this act shall serve until the expiration of their terms. To stagger the terms of Council members, the three Council members elected in the 1991 election from City Wards 1, 3,

and 5 shall serve two-year terms instead of the four-year terms established under Articles II and III of the Charter in Section 1 of this act. The three Council members elected in the 1991 election from City Wards 2, 4, and 6 shall serve four-year terms in accordance with Articles II and III of the Charter in Section 1 of this act.

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

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

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

Sec. 9. 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. 10. 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 General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is superseded or recodified.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 4th day of July, 1991.

---

James C. Gardner  
President of the Senate

---

Daniel Blue, Jr.  
Speaker of the House of Representatives