

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 636
Committee Substitute Favorable 4/24/01

Short Title: Elizabeth City Charter Revised.

(Local)

Sponsors:

Referred to:

March 15, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF
3 ELIZABETH CITY AND TO REPEAL PRIOR LOCAL ACTS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** The Charter of the City of Elizabeth City is revised and
6 consolidated to read as follows:

7 "THE CHARTER OF THE CITY OF ELIZABETH CITY.

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

9 "Section 1.1. **Incorporation.** The City of Elizabeth City, North Carolina, in
10 Pasquotank and Camden Counties and the inhabitants thereof shall continue to be a
11 municipal body politic and corporate, under the name of the 'City of Elizabeth City',
12 hereinafter at times referred to as the 'City.'

13 "Section 1.2. **Powers.** The City shall have and may exercise all of the powers,
14 duties, rights, privileges, and immunities conferred upon the City of Elizabeth City
15 specifically by this Charter or upon municipal corporations by general law. The term
16 'general law' is employed herein as defined in G.S. 160A-1.

17 "Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the
18 time of ratification of this Charter, as set forth on the official map of the City and as
19 they may be altered from time to time in accordance with law. An official map of the
20 city, showing the current municipal boundaries and the boundaries of the wards therein,
21 shall be maintained permanently in the office of the City Clerk and shall be available for
22 public inspection. Upon alteration of the corporate limits or wards pursuant to law, the
23 appropriate changes to the official map shall be made and copies shall be filed in the
24 office of the Secretary of State, the appropriate office of the Register of Deeds, and the
25 appropriate board of elections.

26 "ARTICLE II. GOVERNING BODY.

27 "Section 2.1. **Governing Body.** The City Council, hereinafter referred to as the
28 'Council', and the Mayor shall be the governing body of the City.

1 "Section 2.2. **City Council; Composition; Terms of Office.** The Council shall be
2 composed of eight members who shall serve terms of two years or until their successors
3 are elected and qualified. Two seats of the eight City Council members shall be
4 apportioned and assigned to each ward. The qualified voters of each ward shall vote for
5 and elect candidates to the two 'ward seats' of the Council so assigned and apportioned
6 to the respective ward. No person may be a candidate for a 'ward seat' unless that person
7 is a resident and qualified voter of the ward for which 'ward seat' that person desires to
8 be elected.

9 "Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the
10 qualified voters of the City for a term of two years or until his or her successor is elected
11 and qualified. The Mayor shall be the official head of the City government and shall
12 preside at meetings of the Council; shall have the right to vote only when there is an
13 equal division on any question or matter before the Council; and shall exercise the
14 powers and duties conferred by general law or directed by the Council.

15 "Section 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as
16 Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or
17 disability, in accordance with general law. The Mayor Pro Tempore shall serve in such
18 capacity at the pleasure of the Council.

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

22 "Section 2.6. **Quorum; Voting.** Official actions of the Council and all votes shall be
23 taken in accordance with the applicable provisions of general law, including G.S.
24 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

25 "Section 2.7. **Compensation; Qualifications for Office.** The compensation and
26 qualifications of the Mayor and members of the Council shall be as provided in general
27 law and in this Charter.

28 "Section 2.8. **Vacancies.** Notwithstanding G.S. 160A-63, vacancies that occur in any
29 elective office of the City shall be filled by election as herein provided:

30 (a) If the vacancy occurs within 90 days before the first date for filing notices of
31 candidacy pursuant to G.S. 163-294.2 for the next regular City election, a successor
32 shall be elected at the next regular City election. The elected successor shall serve the
33 remainder of the unexpired term of the office in which the vacancy occurs.

34 (b) If the vacancy occurs more than 90 days before the first date for filing notices
35 of candidacy pursuant to G.S. 163-294.2 for the next regular City election, a successor
36 shall be elected in a special election to fill the vacancy. In such event, the Council shall
37 meet within 10 days of the event creating the vacancy and shall, by resolution, fix the
38 date on which an election to fill the vacancy shall be held. The date of the special
39 election shall be not less than 45 days and not more than 60 days from the date of the
40 adoption of the resolution. Not less than two legal notices of the special election and the
41 filing period for receipt of notices of candidacy shall be published in a qualified
42 newspaper of general circulation in the City with the period between the first date of

1 publication and the second date of publication to be seven days, excluding the first date
2 of publication but including the second date of publication. The resolution shall set the
3 filing period for notices of candidacy, but same shall not be less than 10 days from, but
4 excluding, the first date of publication of the legal notice of the special election and
5 filing period for receipt of notices of candidacy. The resolution shall also set the runoff
6 date, if necessary, and same shall be not less than 15 days and not more than 21 days
7 from the election. The elected successor in the special election shall serve the remainder
8 of the unexpired term of the office in which the vacancy occurs.

9 (c) If by reason of a vacancy there shall be two seats within any ward to be filled
10 in the same election, the candidates shall declare for the specific seat or office that the
11 candidate is seeking in the notice of candidacy. Each seat shall be a single office and the
12 successor elected as provided in G.S. 163-293(a)(1) and (b)(1).

13 "ARTICLE III. ELECTIONS.

14 "Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be
15 held in each odd-numbered year in accordance with the uniform municipal election laws
16 of North Carolina. Elections shall be conducted on a nonpartisan basis and the results
17 determined using the nonpartisan election and runoff method as provided in G.S.
18 163-293.

19 "Section 3.2. **Wards.** The City shall be divided into four wards, and two seats of the
20 eight Council members shall be apportioned and assigned to each ward. The ward
21 boundaries are those existing at the time of ratification of this Charter, as set forth on
22 the official map of the City and as they may be altered from time to time in accordance
23 with general law.

24 "Section 3.3. **Election of Mayor.** A Mayor shall be elected in each regular
25 municipal election by the qualified voters of the City voting at large.

26 "Section 3.4. **Election of Council.** Eight Council members shall be elected in each
27 regular municipal election. Two Council members shall be elected from each ward by
28 the qualified voters of that ward to fill the offices of the Council members whose terms
29 will expire following the election.

30 "Section 3.5. **Special Elections and Referenda.** Special elections and referenda
31 may be held only as provided by this Charter, general law, or applicable local acts of the
32 General Assembly.

33 "ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

34 "Section 4.1. **Form of Government.** The City shall operate under the
35 council-manager form of government in accordance with Part 2 of Article 7 of Chapter
36 160A of the General Statutes.

37 "Section 4.2. **City Manager; Appointment; Powers and Duties.** The Council shall
38 appoint a City Manager who shall be responsible for the administration of all
39 departments of the City government. The City Manager shall have all the powers and
40 duties conferred by general law, except as expressly limited by the provisions of this
41 Charter, and the additional powers and duties conferred by the Council, so far as
42 authorized by general law.

1 "Section 4.3. **City Attorney.** The Council shall appoint a City Attorney licensed to
2 practice law in North Carolina. It shall be the duty of the City Attorney to represent the
3 City, advise City officials, and perform other duties as required by law or as the Council
4 may prescribe.

5 "Section 4.4. **City Clerk.** The Manager shall appoint a City Clerk, subject to the
6 confirmation of the Council, to keep a journal of the proceedings of the Council, to
7 maintain official records and documents, to give notice of meetings, and to perform
8 other duties as required by general law or prescribed by the Council.

9 "Section 4.5. **Tax Collector.** Notwithstanding G.S. 105-349, the Manager shall
10 appoint a Tax Collector and any Assistant Tax Collectors, subject to the confirmation of
11 the Council, to collect all taxes owed to the City and to perform those duties specified in
12 G.S. 105-350 and such other duties as required by general law or prescribed by the
13 Council.

14 "Section 4.6. **Other Administrative Officers and Employees.** The Council may
15 authorize other positions to be filled by appointment by the City Manager, subject to the
16 confirmation of the Council, and may organize the City government as deemed
17 appropriate, subject to the requirements of general law.

18 "Section 4.7. **Council-Manager Relationship.** The Council shall hold the City
19 Manager responsible for the proper management of the affairs of the City, and the City
20 Manager shall keep the Council informed of the conditions and needs of the City and
21 shall make reports and recommendations as may be requested by the Council or deemed
22 necessary by the City Manager. The City Manager shall have the authority to appoint,
23 subject to the confirmation of the Council, and remove all officers, department heads,
24 and employees in the administrative service of the City, except the City Attorney. The
25 City Manager shall have direct supervisory authority over all officers, department
26 heads, and employees in the administrative service of the City. Neither the Mayor, the
27 City Council, nor any member of the City Council shall direct the conduct or activities
28 of any City employee, directly or indirectly, except through the City Manager.

29 "Section 4.8. **Settlement of Claims by City Manager.** The Council may authorize
30 the City Manager to settle claims against the City for: (1) personal injuries or damages
31 to property when the amount involved does not exceed the sum of five thousand dollars
32 (\$5,000) and does not exceed the actual loss sustained, including loss of time, medical
33 expenses, and any other expenses actually incurred; and (2) the taking of small portions
34 of private property that are needed for the rounding of corners at intersections of streets,
35 when the amount involved in any such settlement does not exceed five thousand dollars
36 (\$5,000) and does not exceed the actual loss sustained. Settlement of a claim by the City
37 Manager pursuant to this Section shall constitute a complete release of the City from
38 any and all damages sustained by the person involved in such settlement in any manner
39 arising out of the incident, occasion, or taking complained of. All settlements and
40 releases shall be approved in advance by the City Attorney.

41 "ARTICLE V. BIDDING AND PROCUREMENT.

1 "Section 5.1. **Simplified Bid Process.** In addition to any authority granted by
2 general law, the authority of the City to proceed with a simplified competitive bidding
3 process when the entire cost of construction or repairs is five hundred thousand dollars
4 (\$500,000) or less shall continue as provided in S.L. 1999-93 and any subsequent acts.

5 "ARTICLE VI. DISPOSITION OF PROPERTY.

6 "Section 6.1. **Sale or Lease of Real Estate.** In addition to any authority granted by
7 general law, the authority of the City to proceed with the sale or lease of real property
8 owned for the use and benefit of the Industrial Development Commission shall continue
9 as provided in Chapter 129 of the 1979 Session Laws and any subsequent acts.

10 "Section 6.2. **Redevelopment Commission.** In addition to any authority granted by
11 general law, the authority to dispose of redevelopment property at private sale shall
12 continue as authorized in Chapter 427 of the 1979 Session Laws and any subsequent
13 acts.

14 "ARTICLE VII. FINANCE AND TAXATION.

15 "Section 7.1. **Occupancy Tax Authorized.** The City shall be authorized to levy a
16 room occupancy tax as provided in Chapter 175 of the 1987 Session Laws and any
17 subsequent acts.

18 "ARTICLE VIII. AIRPORT AUTHORITY.

19 "Section 8.1. **Airport Authority.** The Elizabeth City-Pasquotank Airport Authority
20 shall continue to be governed by the provisions of Chapter 198 of the 1987 Session
21 Laws, Chapter 860 of the 1989 Session Laws, Chapter 26 of the 1991 Session Laws,
22 and any subsequent acts.

23 "ARTICLE IX. MISCELLANEOUS.

24 "Section 9.1. **Regulation of Waterways.** The City may adopt ordinances to regulate
25 and control the speed of vessels in waterways within its boundaries or within its
26 extraterritorial jurisdiction, as that term is used in Article 19 of Chapter 160A of the
27 General Statutes. If the City adopts ordinances to regulate and control the speed of
28 vessels as herein authorized, the City or its designee shall place and maintain markers in
29 accordance with the Uniform Waterway Marking System and any supplementary
30 standards for the system adopted by the Wildlife Resources Commission. All markers
31 regulating and controlling the speed of vessels shall be buoys or floating signs placed in
32 the water and must be sufficient in number and size as to give adequate warning of the
33 speed limit to the vessels approaching from various directions. This section is
34 enforceable after markers complying with its provisions are placed in the water."

35 **SECTION 2.** The purpose of this act is to review the Charter of the City of
36 Elizabeth City and to consolidate certain acts concerning the property, affairs, and
37 government of the City. It is intended to continue without interruption those provisions
38 of prior acts that are expressly consolidated into this act, so that all rights and liabilities
39 which have accrued are preserved and may be enforced.

40 **SECTION 3.** This act does not repeal or affect any acts concerning the
41 property, affairs of government of public schools, or any acts validating official actions,
42 proceedings, contracts, or obligations of any kind.

1 **SECTION 4.** The following acts, having served the purposes for which they
2 were enacted or having been consolidated into this act, are expressly repealed:

3 Chapter 131, Private Laws of 1868-69.

4 Chapter 189, Public Laws of 1874-75.

5 Chapter 135, Private Laws of 1895.

6 Chapter 115, Public Laws of 1899.

7 Chapter 111, Private Laws of 1901.

8 Chapter 170, Private Laws of 1901.

9 Chapter 278, Private Laws of 1901.

10 Chapter 46, Private Laws of 1903.

11 Chapter 99, Private Laws of 1903.

12 Chapter 262, Private Laws of 1903.

13 Chapter 350, Private Laws of 1905.

14 Chapter 81, Private Laws of 1907.

15 Chapter 117, Private Laws of 1907.

16 Chapter 379, Private Laws of 1907.

17 Chapter 319, Private Laws of 1909.

18 Chapter 330, Private Laws of 1909.

19 Chapter 120, Private Laws of 1911.

20 Chapter 257, Private Laws of 1913.

21 Chapter 262, Private Laws of 1913.

22 Chapter 487, Private Laws of 1913.

23 Chapter 127, Private Laws of 1913 (Ex. Sess.).

24 Chapter 341, Private Laws of 1915.

25 Chapter 299, Public-Local Laws of 1921, as to Elizabeth City only.

26 Chapter 50, Private Laws of 1921, except section 1.

27 Chapter 202, Private Laws of 1921.

28 Chapter 248, Private Laws of 1921.

29 Chapter 45, Private Laws of 1921 (Ex. Sess.).

30 Chapter 90, Private Laws of 1921 (Ex. Sess.).

31 Chapter 240, Public-Local Laws of 1923, as to Elizabeth City only.

32 Chapter 461, Public-Local Laws of 1923, as to Elizabeth City only.

33 Chapter 217, Private Laws of 1923.

34 Chapter 246, Private Laws of 1923.

35 Chapter 263, Public Laws of 1933, as to Elizabeth City only.

36 Chapter 232, Private Laws of 1933, as to Elizabeth City only.

37 Chapter 481, Public-Local Laws of 1939, except section 2.

38 Chapter 301, Session Laws of 1945.

39 Chapter 508, Session Laws of 1949.

40 Chapter 997, Session Laws of 1953.

41 Chapter 427, Session Laws of 1955.

42 Chapter 268, Session Laws of 1957.

1 Chapter 1450, Session Laws of 1957.
2 Chapter 84, Session Laws of 1959.
3 Chapter 24, Session Laws of 1963.
4 Chapter 158, Session Laws of 1963, except section 36.
5 Chapter 694, Session Laws of 1965.
6 Chapter 35, Session Laws of 1967.
7 Chapter 107, Session Laws of 1967.
8 Chapter 159, Session Laws of 1973.
9 Chapter 930, Session Laws of 1983 (Reg. Sess. 1984).
10 Chapter 844, Session Laws of 1985 (Reg. Sess. 1986).
11 Chapter 295, Session Laws of 1989.
12 Chapter 174, Session Laws of 1999.

13 **SECTION 5.** The Mayor and Council members serving on the date of
14 ratification of this act shall serve until the expiration of their terms or until their
15 successors are elected and qualified. Thereafter, those offices shall be filled as provided
16 in Articles II and III of the Charter of the City of Elizabeth City as contained in Section
17 1 of this act.

18 **SECTION 6.** This act does not affect any rights or interests that arose under
19 any provisions repealed by this act.

20 **SECTION 7.** All existing ordinances, resolutions, and other provisions of
21 the City of Elizabeth City not inconsistent with the provisions of this act shall continue
22 in effect until repealed or amended.

23 **SECTION 8.** No action or proceeding pending on the effective date of this
24 act by or against the City or any of its departments or agencies shall be abated or
25 otherwise affected by this act.

26 **SECTION 9.** If any provision of this act or application thereof is held
27 invalid, the invalidity shall not affect other provisions or applications of this act that can
28 be given effect without the invalid provision or application, and to this end the
29 provisions of this act are declared to be severable.

30 **SECTION 10.** Whenever a reference is made in this act to a particular
31 provision of the General Statutes and the provision is later amended, suspended, or
32 recodified, the reference shall be deemed amended to refer to the amended General
33 Statutes, or to the General Statutes which most clearly correspond to the statutory
34 provision that is amended, suspended, or recodified.

35 **SECTION 11.** This act is effective when it becomes law.