

File 586

H. B. No. 597.

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF HERTFORD, NORTH CAROLINA.

The General Assembly of North Carolina do enact:

CORPORATE POWERS

Section 1. Incorporation and Corporate Powers.

The inhabitants of the town of Hertford, North Carolina, within the boundaries as established in section three of this charter or as hereafter established in the manner provided by law, shall continue to be a body politic and corporate by name, the town of Hertford, and under that name shall have perpetual succession; may use a corporate seal, may sue and be sued; may acquire property within or without its boundaries for any municipal purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage and control such property as its interests may require, and, except as prohibited by the Constitution or North Carolina or restricted by this charter, the town of Hertford shall have and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The following shall be deemed to be a part of the powers conferred upon the town of Hertford by this section:

(1) To levy, assess and collect taxes and to borrow money within the limits prescribed by general law; and to levy and collect special assessments for benefits conferred.

(2) To furnish all local public services; to purchase, hire, construct, own, maintain and operate or lease local public utilities, to acquire, by condemnation or otherwise, within or without the corporate limits, property necessary for any such purposes, subject to restrictions imposed by general law for the protection of other communities, and to grant local public utility franchises and regulate the exercise thereof. Provided, however, that the property of persons, firms and corporations which have the power of eminent domain and the property or electric membership corporations may not be condemned.

(3) To make local public improvements and to acquire, by condemnation or otherwise, property within or without its corporate limits necessary for such improvements, and also to acquire an excess over that needed for any such improvement, and to sell or lease such excess property with the restrictions, in order to protect and preserve the improvement.

(4) To issue and sell bonds on the security of any such excess property, or of any public utility owned by the town, or of the revenues thereof, or both, including the case of a public utility, if deemed desirable by the town, or of the revenues thereof, or of both, including the case

of a public utility, if deemed desirable by the town, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate such utility.

(5) To organize and administer public libraries.

(6) To adopt and enforce within its limits local police, sanitary and other similar regulations not in conflict with general laws. Except as otherwise provided in this Act, the mayor and the board of commissioners shall have authority to determine by whom and in what manner the powers granted by this section shall be exercised.

Sec. 2. Enumerated Powers Not Exclusive.

The enumeration of particular powers by this charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the town of Hertford shall have, and may exercise, all powers which, under the Constitution of North Carolina, it would be competent for this charter specifically to enumerate. All powers of the town, whether expressed or implied, shall be exercised in the manner prescribed by this charter, or, if not prescribed therein, then in the manner provided by ordinance or resolution of the board of commissioners.

Sec. 3. Corporate Boundaries.

The corporate boundaries of the town shall be as follows:

Beginning at a point, at the southwesternly end of a bridge; the same being a drawbridge that crosses the Perquimans River and being a part of U. S. Highway No. 17, thence in a southernly and westernly direction along the edge of said Perquimans River, its various courses, to the southernly side of Toms Creek, thence in a westernly direction along the southernly side of Toms Creek, its various courses to a Canal, thence along said Canal in a westernly and southernly direction, its various courses, crossing Grubb Street, and extending and crossing the end of Dobb Street; thence continuing along said canal in a westernly direction to a ditch; thence along said ditch southernly, southeasternly, and southwesternly to a point; thence South 39 degrees East to Wood' s Lane; thence South 48 degrees East 1161 feet to Gum Pond Run on the easternly side of the Norfolk & Southern Railway; thence along Gum Pond Run to a point, said point being 200 feet westernly from U.S. Highway No. 17, where the said Highway crosses the said Gum Pond Run; thence in a southernly direction, a line parallel with said U. S. Highway No. 17, and at all points 200 feet westernly from said U. S. Highway, to Mill Pond Swamp; thence in a northeasternly direction along Mill Pond Swamp to Castleton Creek; thence continuing still in a northeasternly direction to a point, said point being 200 feet southernly from the Wynne Fork Road; thence in an easternly direction, a line parallel with said Wynne Fork Road, and at all points 200 feet southernly from said Wynne Fork Road to a point 300 feet on the easternly side of U. S. No. 17 Bypass; thence in a northernly direction, a line parallel with U. S. Highway No. 17 Bypass, and at all points 300 feet easternly from said U. S. Highway No. 17 Bypass to Perquimans River; thence in a northernly, westernly, southernly, and westernly direction, the various runs of the Perquimans River to the Harvey's Neck bridge, and thence across said bridge to the opposite side, or easternly side of said Perquimans River; thence in a generally northernly

direction, the various runs of said Perquimans River to the southeasternly end of said Drawbridge, a part of U. S. Highway No. 17; thence across said bridge to the easternly edge of said Perquimans River; thence a generally northernly and northeasternly direction, the various runs of said Perquimans River across a swamp, to the town limits of the town of Winfall; thence in a generally westernly direction along the town limits of the town of Winfall, its various runnings, to the edge of Perquimans River; thence in a generally southernly, easternly, and northernly direction along the various runs of Perquimans River to the northwesternly end of said Drawbridge; thence in a southernly direction, across said bridge to the point of beginning.

Sec. 4. Creation, Salary, and Composition of Mayor and the Board of Commissioners.

Except as otherwise provided in this chapter, all powers of the town shall be vested in a mayor, and a board of commissioners consisting of four members, nominated and elected from the town at large in the manner hereinafter provided. The term of the mayor and the board of commissioners shall be for four years; but the said commissioners shall be elected as is hereinafter provided; and until their successors are elected and qualified, and shall begin on the second Monday of June next following their election. If a vacancy occurs in the office of mayor or commissioners, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the mayor and board of commissioners. The mayor shall receive a salary of fifty dollars (\$50.00) for each month while serving; and each member of the board or commissioners shall receive not less than ten dollars (\$10.00) not more than twenty dollars (\$20.00) for each town meeting attended held by the mayor and said board of commissioners, here after, the amount of said salaries shall be prescribe by ordinance; provided, however, that the present mayor and the members of the board of commissioners shall continue to receive the same salary until the same is changed as provided herein. No ordinance fixing or changing the salary of members of the board of commissioners shall become effective during the current term of office of the members of the board of commissioners enacting such ordinance. The mayor and members of the board of commissioners shall be qualified electors of the town. The mayor or a member of the board of commissioners ceasing to possess any of the qualifications specified in this section, or convicted of crime while in office, shall immediately forfeit his office. The mayor shall have the right of one vote on all matters, as any commissioner, whether the same is mentioned hereinafter or not.

Sec. 5. Meetings of the Board of Commissioners and Mayor.

At seven-thirty o'clock on the second Monday of June following a regular municipal election the board of commissioners and mayor shall meet at the usual place for holding its meetings and newly elected members shall assume the duties of office. Thereafter the mayor and board of commissioners shall meet at such times as may be prescribed by ordinance or resolution, but not less frequently than once each month. Special meetings shall be called by the clerk upon the written request of the mayor or two members of the board of commissioners. Any such notice shall state the subject to be considered at the special meeting and no other subject shall be there considered. All meetings of the mayor and board of commissioners and of committees thereof

shall be open to the public, and rules of the board of commissioners shall provide that citizens of the town shall have a reasonable opportunity to be heard at any such meeting in regard to any matter considered thereat.

Sec. 6. Mayor and Mayor Pro Tem.

At its first meeting in the month of June following a regular municipal election, the board of commissioners shall choose one of its members as vice-chairman, who shall act as mayor pro tem. The mayor shall preside at meetings of the board of commissioners and shall exercise such other powers and perform such other duties as or may be conferred and imposed upon him by the general laws of North Carolina, by this charter and the ordinances of the town. He shall be recognized as the head of the town government for all ceremonial purposes, by the courts for serving civil processes, and by the Governor for purposes for military law. In time of public danger or emergency the mayor shall, if so authorized and directed by vote of the board of commissioners, take command of the police, maintain order and enforce the law. In case of the absence or disability of the mayor, the mayor pro tem shall act as mayor during the continuance of the absence or disability.

Sec. 7. Board of Rules.

The board of commissioners shall be the judge of the election and qualifications of its members and the mayor and in such cases shall have power to subpoena witnesses and compel the production of all pertinent books, records, and papers, but the decision of the board of commissioners in any such case shall be subject to review by the court. The board of commissioners shall determine its own rules and order of business and keep a journal of its proceedings.

Sec. 8. Quorum.

A majority of the members elected to the board of commissioners shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of the absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative veto of a majority of the members elected to the board of commissioners shall be necessary to adopt any ordinances, resolution, order of votes; except that a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his own official conduct or when his financial interests are involved with the exception of the mayor.

Sec. 9. Introduction and Passage of Ordinances and Resolutions.

Ordinances and resolutions shall be introduced in the board of commissioners on a printed form. All ordinances, except ordinances making appropriations and ordinances codifying or

rearranging existing ordinances or enacting a code of ordinances, shall be confined to one subject, and the subject of all ordinances shall be clearly expressed in the title. Ordinances making appropriations shall be confined to the subject of appropriations. The yeas and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the board of commissioners. The enacting clause of all ordinances shall be: "Be it ordained by the town of Hertford,".

Sec. 10. Ordinances and Resolutions Take Effect; Emergency Measures.

Ordinances making the annual tax levy, appropriations ordinances, ordinances and resolutions pertaining to local improvements and assessments, ordinances and resolutions providing for or directing any investigation of town affairs, resolutions requesting information from administrative officers or directing administrative actions, and emergency measures shall take effect at the time indicated therein. Except as otherwise prescribed in this charter all other ordinances and resolutions passed by the board of commissioners shall take effect at the time indicated therein, but not less than ten days from the date of their passage. An emergency measure in an ordinance or resolution to provide for the immediate preservation of the public peace, property, health or safety, in which the emergency claim is set forth and defined in a preamble thereto. The affirmative vote of at least four members of the board of commissioners shall be required to pass any ordinance or resolution as an emergency measure. No measure making or amending a grant, renewal or extension of the franchise or other special privilege shall ever be passed as an emergency measure. No situation shall be declared an emergency by the board of commissioners except as defined in this section, and it is the intention of this charter that such definition shall be strictly construed by the courts.

Sec. 11. Authentication and Publication of Ordinances; Resolutions.

Upon its final passage each ordinance or resolution shall be authenticated by the signature of the mayor and the town clerk and shall be recorded in a book kept for that purpose. Within ten days after final passage, a notice setting forth in brief the substance of each ordinance shall be published or posted at least once in such manner as the board of commissioners may prescribe.

MUNICIPAL ELECTIONS

Sec. 12. Municipal Elections.

The Mayor of the town of Hertford shall be elected for a term of four years and every other odd year thereafter at a regular municipal election.

One-half, or one over one-half of the board of commissioners, which receive the greater number of votes at the next election, shall be elected for a period of four years, the balance of the board of commissioners receiving the smaller number of votes, shall be elected for a term of two years. The commissioner elected for a period of two years shall again be candidates for office, along

with other duly qualified candidates, at the next regular municipal election, at which election all candidates elected shall be elected for a term of four years.

Thereafter, all members of the Board of Commissioners of the town of Hertford whose term of office has expired, along with other duly qualified candidates, shall be candidates for election at the next regular municipal election, the same to be held on Tuesday following the first Monday in May in odd-numbered years. The board of commissioners may by resolution order a special election, fix the time for holding the same, and provide all means for holding such special election.

Sec. 14. Regulations of Elections.

All elections shall be conducted in accordance with the general state laws relating to municipal elections, except as otherwise provided herein.

Sec. 15. Candidates for Office.

Any qualified elector of the town may become a candidate for the office of mayor or board of commissioners by filling a written notice on the forms provided by the town with the town clerk and by payment of the filing fee as provided for herein. The filing fee for the office of mayor shall be five dollars (\$5.00), and for the office of board of commissioners shall be five dollars (\$5.00).

The town clerk shall take and preserve the form filed by each candidate. No filing forms shall be accepted unless signed by the candidate. Any candidate may withdraw his nomination not later than the last day for filing, by filing a notice of withdrawal with the town clerk. The filing form for each candidate for mayor or a member of the board of commissioners shall be preserved by the town clerk until the expiration of the term of office for which he filed.

Sec. 15. Ballots.

The full names of candidates nominated for mayor or board of commissioners in accordance with the provisions of this chapter, except as may have withdrawn, died or become ineligible shall be printed on the official ballots in alphabetical order of the surname in rotation without any party designation. There shall be printed as many sets of ballots as there are candidates. Each set of ballots shall begin with the name of a different candidate, the other names being arranged thereafter in regular alphabetical order, commencing with the name next in alphabetical order after the one that stands first on such set of ballots. When the last name is reached in alphabetical order it shall be followed by the name that begins with the first letter represented in the list of names and by the others in regular order.

Sec. 16. Election of Mayor and Board of Commissioners

All members of the board or commissioners shall be elected at large. Every voter shall be entitled to vote for one candidate for mayor and for as many candidates as there are members to be elected to the board of commissioners. The vote for commissioners will not count, unless the voter votes for the entire number of candidates to be elected to the board of commissioners; and those candidates who receive the largest number of votes, shall be declared elected.

ADMINISTRATIVE SERVICE

Sec. 17. Appointment of Officers and Employees

The board of commissioners may appoint a city manager; a town clerk, a treasurer, a tax collector, an accountant, a town attorney, a chief of police, a fire chief, and such other officers and employees as may be necessary, none of whom need to be a resident of the town at the time of appointment; provided, that the board of commissioners may appoint one person to fill any two or more such positions. Such employees or officers shall serve at the pleasure of the commissioners and shall perform such duties as may be prescribed by the board of commissioners. The board of commissioners shall fix all salaries, prescribe bonds and require such oaths as they may deem necessary.

The board of commissioners may confer upon the mayor the duties of town manager. If this is done, the mayor shall serve as manager at the pleasure of the board, and the board may, at the time it confers the duties of manager on the mayor or at any time he is serving as manager, increase the mayor's compensation for the period that he serves as manager.

Sec. 18. Town Clerk.

The board of commissioners shall choose a town clerk. The town clerk shall keep the records of the mayor and board of commissioners and perform such other duties as may be required by law or the mayor and board of commissioners.

Sec. 19. Duties of Town Attorney.

The attorney shall be an attorney at law who shall have practiced in the State of North Carolina for at least five years. He shall be the chief legal adviser of and attorney for the town and all departments and officers thereof in matters relating to their official powers and duties. It shall be his duty, either personally or by such assistants as he may designate, to perform all services incident to the department of law; to attend all meetings of the mayor and the board of commissioners; to give advice in writing, when so requested, to the mayor and to the board of commissioners or the director of any department; to prosecute or defend, as the case may be, all suits and cases to which the town may be a party, prepare all contracts, bonds and other instruments in writing in which the town is concerned, and to endorse on each his approval of the form and correctness thereof, and to perform such other duties of a legal nature that the mayor and board of commissioners may require. In addition of the duties imposed upon the town

attorney by this charter or required of him by ordinance or resolution of the mayor or board of commissioners, he shall perform any duties imposed upon the chief legal officers of municipalities by law.

Sec. 20. Duties of Town Accountant.

The town accountant shall prepare the budget in accordance with the general laws of North Carolina relating to the preparation of municipal budgets. He shall have authority and shall be required: To maintain accounting control over the finances of the town government, for which purpose he is empowered to operate a set of general accounts embracing all the financial transactions of the town, and such subsidiary accounts and cost records as may be required by ordinance or by the board of commissioners for purpose of administrative direction and financial control; to prescribe the forms of receipts, vouchers, bills, or claims to be filed by all departments and agencies of the town government; to examine and approve all contracts, orders and other documents by which the town incurs financial obligations, having ascertained before approval that moneys have been duly appropriated and allotted to meet such obligations and will become available when the obligations have become due and payable; to audit and approve all bills, invoices, payrolls, and other evidence of claims, demands, or charges against the town governments and to determine the regularity, legality, and correctness of such claims, demand, or charges; to make monthly reports on all receipts and expenditures of the town governments to the mayor and board of commissioners and to take monthly reports on funds, appropriations, allotments, encumbrances, and authorized payments to the mayor, the board of commissioners, and the head of the departments or agency directly concerned; to inspect and audit any accounts or records of financial transactions which may be maintained by any department or agency of the town government apart from or subsidiary to the general accounts; and to perform such other duties pertaining to the financial records of the town government as the board of commissioners may require by ordinance.

Sec. 21. Duties of Town Tax Collector.

The tax collector shall collect all taxes, licenses, fees, and other moneys belonging to the town government, subject to the provisions of this charter and ordinances enacted thereunder, and he shall diligently comply with and enforce the general laws of North Carolina relating to the collection, sale and foreclosure of taxes by municipalities. It shall be the duty of the tax collector to deposit daily in the town depository all money belonging to the town.

Sec. 22. Duties of Town Treasurer.

The treasurer, if any, shall have custody of and shall disburse all moneys belonging to the town government subject to the provisions of this charter and ordinances enacted thereunder; shall have custody of all investments and invested funds of the town or in possession of the town in a fiduciary capacity, and shall keep a record of such investments, and shall have custody of all bonds and certificates of town indebtedness, including such bonds and certificates unissued or

cancelled, and the receipt and delivery of town bonds and certificates for transfer, registration, or exchange.

Sec. 23. Custody of Town Money

All moneys received by any department or agency of the town for or in connection with the business of the town government shall be paid properly into the town depository. Such institution shall be designated by the board of commissioners in accordance with such regulations and subject to such requirement as to security for deposits and interest thereon as may be established by ordinance. All interests on moneys belonging to the town shall accrue to the benefit of the town government. All moneys belonging to the town government shall be disbursed only on vouchers signed by the mayor and countersigned by the town clerk.

Sec. 24. Issuance of Bonds.

The town may issue bonds for the purpose and in the manner prescribed by the general laws of North Carolina for the issuance of bonds by municipalities.

Sec. 25. Purchase Procedure.

Before making any purchase for supplies, materials, equipment, opportunity shall be given for competition, under such rules and regulations, and with such expectations, as the board of commissioners may prescribe by ordinance. All expenditures for supplies, materials, equipment, involving more than two thousand dollars (\$2,000.00) shall be made on a written contract, and such contract shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by ordinance and not in conflict with the general law of the State.

Sec. 26. Contracts for Town Improvements.

Any town improvement costing more than thirty-five hundred dollars (\$3,500.00) shall be executed by contract except where such improvement is authorized by the board of commissioners to be executed directly by a town department in conformity with detailed plans, specifications and estimates, and provided the total cost is estimated not to exceed fifteen thousand dollars (\$15,000.00). All such contracts for more than thirty-five hundred dollars (\$3,500.00) shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by ordinance, provided the board of commissioner shall have the power to reject all bids and advertise again.

Sec. 27. Contacts Extending Beyond One Year.

No contract involving the payment of money out of the appropriations of more than one year (other than renewals of continuing appropriations), shall be made for a period of more than ten years; nor shall any such contract be valid unless made or approved by ordinance. No ordinance

providing for such a contract shall be valid unless notice of the intention to pass the same was published in a newspaper of general circulation within the town at least ten days before the passage by the board of commissioners.

Sec. 28. Independent Audit.

As soon as practicable after the close of each fiscal year, an independent audit shall be made of all accounts of the town government by qualified accountants, selected by the board of commissioners who have no personal interest directly or indirectly in the financial affairs of the town government or any of its officers.

MISCELLANEOUS PROVISIONS

Sec. 29. Publicity Records.

All records and accounts of every office and department of the town shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under reasonable regulations established by the board of commissioners.

Sec. 30. Personal Interest.

Neither the mayor nor any member of board of commissioners nor any officer or employee of the town shall have a financial interest, direct or indirect, in any contract with the town, or be financially interested, directly or indirectly, in the sale to the town of any land, materials, supplies or services, except on behalf of the town as an officer or employee. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the town found guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge expressed or implied of the person or corporation contracting with the town, shall render the contract voidable by the board of commissioners.

Sec. 31. Oath of Office.

Every officer of the town shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the town clerk:

“I solemnly swear that I will support the Constitution and will obey the laws of the United States and of the State of North Carolina, that I will, in all respects, observe the provisions of the charter and ordinances of the town of Hertford and will faithfully discharge the duties of the office of _____.”

Sec. 32. Continuance of Contracts.

All contracts entered into by the town or for its benefit, prior to the taking effect of this charter, shall continue in full force and effect. Public improvements for which legislative steps have been

taken under laws or charter provisions existing at the time this charter takes effect may be carried to completion in accordance with the provisions or such existing laws and charter provisions.

Sec. 33. Saving Clause.

If any part of this charter shall be declared invalid by a court of competent jurisdiction, such judgment shall not invalidate the remainder of the charter. The provisions of this charter shall supersede all laws and ordinance not consistent herewith, insofar as the town of Hertford is affected thereby, and all laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 34.

This Act shall be in full force and effect from and after its ratification, provided that the mayor and board of commissioners in office at the time this charter takes effect shall continue until their successors are elected and qualified.

In the General Assembly read three times and ratified, this the 18th day of May, 1965.

ROBERT W. SCOTT, President of the Senate.

H. P. Taylor, Jr., Speaker of the House of Representatives.

Examined and round correct,

R. H. JERIGAN, JR., For Committee.

CHAPTER 38

H. B. 208

AN ACT TO PERMIT THE BOARD OF COMMISSIONERS OF THE TOWN OF HERTFORD TO CONFER THE DUTIES OF TOWN MANAGER ON THE MAYOR.

The General Assembly of North Carolina enacts:

Section 1. Section 17 of Chapter 586 of the 1965 Session Laws is amended by adding a second paragraph to read as follows:

“The board of commissioners may confer upon the mayor the duties of town manager. If this is done, the mayor shall serve as manager at the pleasure of the board, and the board may, at the time it confers the duties of manager on the mayor or at any time he is serving as manager, increase the mayor’s compensation for the period that he serves as manager.”

CHAPTER 40

Session Laws 1975

Sec. 2. This act if affective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1975.

CHAPTER 498

H. B. 925

AN ACT REGARDING HERTFORD MUNICIPAL ELECTIONS.

The General Assembly of North Carolina do enact:

Section 1. Section 16 of Chapter 586 of the 1965 Session Laws is hereby amended by deleting the last two lines “over a majority of votes cast”.

Sec. 2 This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June 1971.