

THE CHARTER.¹

Article I. Incorporation, Corporate Powers and Boundaries.

- § 1.1. Incorporation.
- § 1.2. Powers.
- § 1.3. Corporate limits.

Article II. Mayor and Board of Commissioners.

- § 2.1. Governing body.
- § 2.2. Selection of the mayor; term of office; duties.
- § 2.3. Board of commissioners; terms of office.
- § 2.4. Mayor pro tempore.

Article III. Elections.

- § 3.1. Regular municipal elections; conduct; staggered terms.
- § 3.2. Method of election; officers elected at large.

Article IV. Organization and Administration.

- § 4.1. Form of government.
- § 4.2. Town manager.
- § 4.3. Town attorney.
- § 4.4. Other administrative officers and employees.

Article V. Retirement and Pension Funds.

- § 5.1. Retirement system.
- § 5.2. Firemen's supplementary pension fund.

Article VI. Boards and Commissions.

- § 6.1. Board of alcoholic beverage control—Generally.
- § 6.2. Same—Subsequent election to determine retention or abolition of store authorized at a prior election; effect of abolition, and discontinuance of store.

Article VII. Special Provisions.

- § 7.1. Street closing authorized.

Article I. Incorporation, Corporate Powers and Boundaries.

Sec. 1.1. Incorporation.

The Town of North Wilkesboro, North Carolina, in the County of Wilkes, and the inhabitants thereof,

shall continue to be a municipal body politic and corporate, under the name and style of the "Town of North Wilkesboro," hereinafter at times referred to as the "town."

Sec. 1.2. Powers.²

The Town of North Wilkesboro shall have and may exercise all of the powers, duties, rights, privileges and immunities which are now or hereafter may be conferred, either expressly or by implication, upon the Town of North Wilkesboro specifically or upon municipal corporations generally by this Charter, by the State Constitution, or by general or local law.

Sec. 1.3. Corporate limits.³

The corporate limits of the Town of North Wilkesboro shall be those existing at the time of ratification of this Charter,⁴ as the same are set forth on the official map of the town, and as the same may be altered from time to time in accordance with law. An official map of the town, showing the current town boundaries, shall be maintained permanently in the office of the town clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the town shall be made.

Article II. Mayor and Board of Commissioners.

Sec. 2.1. Governing body.

The mayor and board of commissioners, elected and constituted as herein set forth, shall be the governing body of the town. On behalf of the town, and in conformity with applicable laws, the mayor and board may provide for the exercise of all municipal powers, and shall be charged with the general government of the town.

Sec. 2.2. Selection of the mayor; term of office; duties.

The mayor shall be elected by the qualified voters of the town for a term of four years, in the manner provided by article III of this Charter. The mayor shall be the official head of the town government, and shall preside at all meetings of the board of commissioners. The mayor shall have the right to vote on matters before the board only where there is an equal number of votes in the affirmative and in the negative.

Sec. 2.3. Board of commissioners; terms of office.

The board of commissioners shall be composed of five members, each of whom shall be elected for a term of four years, in the manner provided by article III of this Charter.

Sec. 2.4. Mayor pro tempore.

In accordance with applicable state laws, the board of commissioners shall appoint one of its members to act as mayor pro tempore to perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the board.

Article III. Elections.

Sec. 3.1. Regular municipal elections; conduct; staggered terms.

(a) Regular municipal elections shall be held in the town every two years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina.

(b) At the regular municipal election to be held in 1977, and every four years thereafter, the mayor of the town shall be elected for a four-year term.

(c) At the regular municipal election to be held in 1977, five members of the board of commissioners shall be elected. The two candidates who receive the highest number of votes shall be elected for four-year terms, while the three candidates who receive the next highest number of votes shall be elected for two-year terms. If two or more of the candidates who are elected receive an equal number of votes, so that the candidate or candidates who will serve four-year terms cannot be determined, the county board of elections shall determine by lot the lengths of the terms of such candidates.

(d) Beginning at the regular municipal election to be held in 1979, and every four years thereafter, three members of the board of commissioners shall be elected to serve for four-year terms. Beginning at the regular municipal election to be held in 1981, and every four years thereafter, two members of the board of commissioners shall be elected for four-year terms.

Sec. 3.2. Method of election; officers elected at large.

The mayor and members of the board of commissioners shall be elected according to the nonpartisan

plurality election method as set out in North Carolina General Statutes, section 163-292. The mayor and members of the board shall be elected by all of the qualified voters of the town.

Article IV. Organization and Administration.*

Sec. 4.1. Form of government.

The town shall operate under the council-manager form of government, in accordance with part 2 of article 7 of chapter 160A of the General Statutes of North Carolina.

(Ord. of 4-6-10, § 2)

Sec. 4.2. Town manager.

The board of commissioners shall appoint a town manager who shall be the administrative head of town government, and who shall be responsible to the board of commissioners for the proper administration of the affairs of the town. The town manager shall hold office at the pleasure of the board of commissioners, and shall receive such compensation as the board shall determine. In exercising his duties as chief administrator, the manager shall have the following powers and duties:

(a) He shall appoint and suspend or remove all town officers and employees not elected by the people and whose appointment or removal is not otherwise provided for by law, except the town attorney, in accordance with such general personnel rules, regulations, policies, or ordinances as the board of commissioners may adopt.

(b) He shall direct and supervise the administration of all departments, offices, and agencies of the town, subject to the general direction and control of the board of commissioners, except as otherwise provided by law.

(c) He shall see that all laws of the state, the town charter, and the ordinances, resolutions, and regulations of the board are faithfully executed within the town.

(d) He shall attend all meetings of the board of commissioners, unless excused therefrom, and shall recommend any measures that he deems expedient.

*Editor's note—Ord. of Apr. 6, 2010, § 2, deleted the former Art. IV, §§ 4.1 - 4.5, and enacted a new Art. IV as set out herein. The former Art. IV pertained to organization and administration and derived from the original Charter.

(e) He shall prepare and submit the annual budget and capital programs to the board of commissioners.

(f) He shall keep the board of commissioners fully advised as to the financial condition of the town and shall annually submit to the board of commissioners, and make available to the public, a complete report on the finances and administrative activities of the town as of the end of the fiscal year.

(g) He shall make any other reports that the board of commissioners may require concerning the operations of the town departments, offices and agencies subject to his direction and control.

(h) He shall perform any other duties that may be required or authorized by the board of commissioners. (Ord. of 4-6-10, § 2)

Sec. 4.3. Town attorney.

The board of commissioners shall appoint a town attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the town attorney to prosecute and defend suits against the town; to advise the mayor, board of commissioners and other town officials with respect to the affairs of the town; to draft all legal documents relating to the affairs of the town; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the town may be concerned; to attend meetings of the board of commissioners, and to perform other duties required by law or as the board may direct.

(Ord. of 4-6-10, § 2)

Sec. 4.4. Other administrative officers and employees.

Consistent with applicable state laws, the board of commissioners may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the town government in order to promote the orderly and efficient administration of the affairs of the town.

(Ord. of 4-6-10, § 2)

Article V. Retirement and Pension Funds.⁵

Sec. 5.1. Retirement system.

(a) The board of commissioners is authorized and permitted, in its discretion, to contract with any company, firm, corporation or association for a system of

retirement, disability or death benefits, or any combination thereof, for the employees and officials of the town, including the mayor and board of commissioners, and to expend the funds necessary therefor.

(b) The board is also authorized, in its discretion, to require payroll deductions of officials and employees who elect to participate in the system in order to provide funds which may be used to assist in defrauding the cost of the system.

Sec. 5.2. Firemen's supplementary pension fund.

(a) There shall continue to be a supplementary pension fund for the fire department of the Town of North Wilkesboro, said fund to be known as the "North Wilkesboro Firemen's Supplementary Fund," hereinafter referred to as "Supplementary Pension Fund," and said fund to be administered by a board of trustees composed of the town treasurer of the Town of North Wilkesboro, and the first assistant chief of the fire department of the Town of North Wilkesboro, and a third member of said board to be elected annually from the membership of the North Wilkesboro Fire Department by a majority vote of the chief and members of the fire department.

(b) All funds in the firemen's relief fund of the town in excess of five thousand dollars (\$5,000) shall continue to be transferred to the "Supplementary Pension Fund" so as to retain in the firemen's relief fund an amount of money not greater than five thousand dollars (\$5,000); provided, however, the firemen's relief fund shall have restored such sums from recurring annual receipts as are necessary to maintain a fund of not less than five thousand dollars (\$5,000); provided further, of the funds and subsequent recurring increments thereto transferred from the firemen's relief fund of the town to the "Supplementary Pension Fund," any or all of the same shall be retrievable by and to the firemen's relief fund of the town in order to defray and meet such legitimate claims which accrue under the provisions and coverage of the firemen's relief fund.

(c) Any person who is a member of the town fire department, as shown by town records, or any person who shall become such a member, shall be eligible for benefits from the "Supplementary Pension Fund" unless or until such person has been retired as a member of the town fire department under the provisions of the retirement system for counties, cities, and towns as set out in article 3, chapter 128 of the General Statutes of

North Carolina and as participated in by the town, or as a voluntary member of the town fire department. This section does not modify or alter in any way the Workmen's Compensation Laws of the State of North Carolina.

(d) Any member who has served twenty years as a fireman in the North Wilkesboro Fire Department and has attained the age of fifty-five is entitled to receive a pension from the "Supplementary Pension Fund" in the amount of one hundred dollars (\$100.00) per month.^{5a}

(e) The town treasurer, as a member of the board of trustees of the "Supplementary Pension Fund," shall be treasurer and custodian of the fund and shall pay the beneficiaries thereof on the first day of each and every month any moneys in his possession that such beneficiaries may be entitled to under the provisions of this section.

(f) The town treasurer, as custodian of the "Supplementary Pension Fund," shall be required to give a bond with an indemnity company authorized to do business in the State of North Carolina as surety in a sum equal to one and one quarter times the maximum amount estimated by the board of trustees as likely to be in his possession as such custodian at any time within the fiscal year for which the bond is given. The condition of the bond shall be that the custodian shall faithfully receive, keep, disburse, and account for, as herein provided, all funds and property coming into his hands as such custodian, and the premiums on the bond shall be paid out of the "Supplementary Pension Fund."

(g) The custodian of the "Supplementary Pension Fund" is authorized and directed to invest all moneys coming into his possession belonging to the "Supplementary Pension Fund," except so much as the board of trustees from time to time determines is reasonably necessary for the prompt payment of claims and expenses, in such securities as the board of trustees shall select; provided, however, that such securities shall be limited to and upon the same conditions as those enumerated by the General Statutes of North Carolina, as amended, as to the investment of trust funds, and/or the funds of guardians.

(h) The board of trustees as herein provided for may, in its discretion, take and receive any gift, grant, bequest, or devise or any real or personal property or other things of value for, and as, the property of the

"Supplementary Pension Fund" and hold and disburse and invest the same for the use of the fund in accordance with the purpose of this section and the conditions attached to any such gift, grant, bequest or devise.

(i) The provisions of chapter 118 of the General Statutes of North Carolina creating a firemen's relief fund shall not apply to the town insofar, and only insofar, as such provisions are inconsistent with and contradictory to the provisions of this section.

(j) If any active volunteer fireman of the Town of North Wilkesboro who has served at least twenty years as an active volunteer fireman of the Town of North Wilkesboro and who has arrived at the age of at least fifty-five shall die prior to such volunteer fireman's retirement, then the designated beneficiary of such volunteer fireman, or in the absence of a designated beneficiary the estate of such volunteer fireman, shall receive in a lump sum the retirement benefits that would be applicable to such volunteer fireman for a twenty-four month period, provided that the total death benefits paid to such beneficiary or estate shall not exceed one thousand two hundred dollars (\$1,200).

(k) If any volunteer fireman of the Town of North Wilkesboro who has served at least twenty years as an active volunteer fireman of the Town of North Wilkesboro and who has arrived at the age of at least fifty-five shall retire and shall subsequently die before drawing the lesser of either twenty-four monthly retirement benefits applicable to such volunteer fireman as set forth in subsection (d) of this section or the sum of two thousand four hundred dollars (\$2,400), then the designated beneficiary of such deceased volunteer fireman or in the absence of a designated beneficiary the estate of such volunteer fireman shall receive in a lump sum the amount equal to twenty-four monthly retirement benefits, less the amount of monthly retirement benefits received before death, provided that in no event shall the retirement benefits paid under this subparagraph to such retired volunteer fireman while living and to his beneficiary or estate after his death exceed two thousand four hundred dollars (\$2,400). (Sess. L. 1979, ch. 366, § 1; Sess. L. 1981, ch. 287, §§ 1 to 4; Sess. L. 1987, ch. 176, §§ 1, 3.)

Article VI. Boards and Commissions.

Sec. 6.1. Board of alcoholic beverage control— Generally.

(a) There shall continue to be a town board of alcohol control, appointed and constituted as herein

set forth, which shall have general power and authority over the town liquor control store in the manner provided herein.

(b) The town board of commissioners shall appoint the town board of alcoholic control, which shall be composed of a chairman and two other members who shall be well known for their character, ability and business acumen. The board shall be known and designated as the "Town of North Wilkesboro Board of Alcoholic Control." The chairman of such board shall be designated by the board of commissioners and shall serve for his first term a period of three years, and one member shall serve for his first term a period of two years, and the other member shall serve for his first term a period of one year; and all terms shall begin with the date of their appointment, and after the same terms shall have expired, their successors in office shall serve for a period of three years. Their successors, or any vacancy occurring in the board, shall be named or filled by the board of commissioners.

(c) The town board of alcoholic control shall have all of the powers and duties imposed by section 18A-17 of the General Statutes of North Carolina on county boards of alcoholic control, except as otherwise provided herein, and shall be subject to the powers and authority of the state board of alcoholic control the same as county boards of alcoholic control as provided in section 18A-15 of the General Statutes of North Carolina. The town board of alcoholic control and the operation of any town liquor store authorized under the provisions of this section shall be subject to and in pursuance with the provisions of chapter 18A of the General Statutes of North Carolina, except to the extent to which the same may be in conflict with the provisions of this section. Wherever the word "county" board of alcoholic control appears in such chapter, it shall include the town board of alcoholic control.

(d) The net profits derived from stores operated under this section, as determined by quarterly audits, shall be allocated by the board of alcoholic control and used as herein provided:

(1) Five percent (5%) of the net profits shall be expended by the board of alcoholic control for law enforcement and education as to the effects of the use of alcoholic beverages.

(2) Ten percent (10%) of the net profits shall be paid to the board of trustees of Wilkes General Hospital.

(3) Twenty percent (20%) of the net profits shall be paid to the general fund of Wilkes County to be appropriated for any proper governmental purpose.

(4) The remaining net profits shall be paid to the general fund of the Town of North Wilkesboro to be used for any proper governmental purposes; provided that, the board of commissioners shall apply five percent (5%) of the funds allocated to recreational purposes for the benefit of the citizens of the town.

(e) Subsequent elections concerning the town liquor control store may be held, and such elections shall be conducted in accordance with the procedures contained in chapter 412, Session Laws of 1965, and as set forth in section 6.2 of this Charter.

Sec. 6.2. Same—Subsequent election to determine retention or abolition of store authorized at a prior election; effect of abolition, and discontinuance of store.6

If a subsequent election shall be held and at such election a majority of the votes shall be cast "Against Town Liquor Control Store," the town liquor control board shall within three months from the canvassing of such votes and the declaration of the result thereof, close said store and shall thereafter cease to operate the same, and within said three months the town control board shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of said board and convert the same into cash and turn the same over to the town treasurer. Thereafter, all Public, Public-Local and Private Laws applicable to the sale of intoxicating beverages with said Town of North Wilkesboro in force and effect prior to the authorization to operate liquor store shall be in full force and effect the same as if such election had not been held until and unless another election is held under the provisions of this act in which a majority of the votes shall be cast "For Town Liquor Control Store." No election shall be called and held in the Town of North Wilkesboro under the provisions of this act within three years from the holding of the last election thereunder. It shall be the duty of the governing body of the town to order the special liquor election herein authorized in this section within sixty days after a sufficient petition has been filed requesting the same. No election under this act shall be held on the day of any biennial county, or Town of North Wilkesboro general election or primary election, or within thirty

days of any such election. (Sess. L. 1965, ch. 412, § 3; 8-2-77, § 1.)

Article VII. Special Provisions

Sec. 7.1. Street closing authority.⁷

The commissioners of the Town of North Wilkesboro are hereby authorized to close that section of Eighth Street lying South of B. Street and North of the alley extending through Blocks 25 and 26, as shown on Trogdon's Map of North Wilkesboro, or so much of this section of said street as the board of town commissioners may deem necessary for the purpose of erecting a municipal building, or buildings, thereon, and the proper entrance to and from said property. (Sess. L. 1938, ch. 6, § 1; 8-2-77, § 1.)

CHARTER FOOTNOTES

¹ **Editor's note.** The Charter of the Town of North Wilkesboro is contained in Session Laws 1977, chapter 263, ratified April 25, 1977.

Amendments to the Charter are cited in parentheses following the section affected. Unless so indicated, the section derives unchanged from the original law.

A uniform system of capitalization has been employed and a frontal analysis has been added for the convenience of the user; no substantive change has been made by the Editors.

² For state law as to corporate powers, see G.S., §§ 160A-11, 160A-12.

³ For state law as to corporate limits, see G.S., §§ 160A-21 to 160A-23.

⁴ **Editor's note.** This Charter was ratified April 25, 1977.

⁵ For state law as to local provisions for retirement and pension funds for employees, see G.S., §§ 160A-163.

^{5a} **Editor's note.** Section 2 of chapter 176 of the 1987 Session Laws provided as follows:

"Retired members of the fire department who were receiving monthly pensions under the provisions of section 5.2(d) of the Charter of the Town of North Wilkesboro, chapter 263, 1977 Session Laws, as amended by chapter 854, 1979 Session Laws, as it existed prior to the effective date of this act, are entitled to receive in lieu thereof monthly pensions in the amount specified in section 2 of this act, beginning with the first full calendar month following the effective date of this act."

The effective date of such act is May 11, 1987.

⁶ **Editor's note.** This section has been retained from the old Charter by direction of the town attorney, as per section 160A-496 of the General Statutes of North Carolina. This part of the old Charter was saved from repeal by the new, so as to continue to provide for a subsequent election to determine retention or abolition of the store.

⁷ **Editor's note.** This section is included by direction of the town attorney, as per section 160A-496 of the General Statutes of North Carolina, which empowers a city or town attorney to recommend the incorporation of local acts into the Charter.