

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**HOUSE BILL 636
RATIFIED BILL**

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

The General Assembly of North Carolina enacts:

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

"THE CHARTER OF THE CITY OF ELIZABETH CITY.

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

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

"Section 1.2. **Powers.** The City shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the City of Elizabeth City 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.

"Section 1.3. **Corporate Limits.** The corporate limits shall be 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 municipal boundaries and the boundaries of the wards therein, shall be maintained permanently in the office of the City Clerk and shall be available for public inspection. Upon alteration of the corporate limits or wards pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the appropriate office of the Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

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

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

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

"Section 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 his or her absence or

disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Council.

"Section 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.

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

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

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

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

(b) If the vacancy occurs more than 90 days before the first date for filing notices of candidacy pursuant to G.S. 163-294.2 for the next regular City election, a successor shall be elected in a special election to fill the vacancy. In such event, the Council shall meet within 10 days of the event creating the vacancy and shall, by resolution, fix the date on which an election to fill the vacancy shall be held. The date of the special election shall be not less than 45 days and not more than 60 days from the date of the adoption of the resolution. Not less than two legal notices of the special election and the filing period for receipt of notices of candidacy shall be published in a qualified newspaper of general circulation in the City with the period between the first date of publication and the second date of publication to be seven days, excluding the first date of publication but including the second date of publication. The resolution shall set the filing period for notices of candidacy, but same shall not be less than 10 days from, but excluding, the first date of publication of the legal notice of the special election and filing period for receipt of notices of candidacy. The resolution shall also set the runoff date, if necessary, and same shall be not less than 15 days and not more than 21 days from the election. The elected successor in the special election shall serve the remainder of the unexpired term of the office in which the vacancy occurs.

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

"ARTICLE III. ELECTIONS.

"Section 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 shall be conducted on a nonpartisan basis and the results determined using the nonpartisan election and runoff method as provided in G.S. 163-293.

"Section 3.2. **Wards.** The City shall be divided into four wards, and two seats of the eight Council members shall be apportioned and assigned to each ward. The ward boundaries 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 general law.

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

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

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

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

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

"Section 4.2. **City Manager; Appointment; Powers and Duties.** The Council shall appoint a City Manager who shall be responsible for the administration of all departments of the City government. The City Manager shall have 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.

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

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

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

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

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

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

"ARTICLE V. BIDDING AND PROCUREMENT.

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

"ARTICLE VI. DISPOSITION OF PROPERTY.

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

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

"ARTICLE VII. FINANCE AND TAXATION.

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

"ARTICLE VIII. AIRPORT AUTHORITY.

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

"ARTICLE IX. MISCELLANEOUS.

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

SECTION 2. The purpose of this act is to review the Charter of the City of Elizabeth City 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 that are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

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

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

- Chapter 131, Private Laws of 1868-69.
- Chapter 189, Public Laws of 1874-75.
- Chapter 135, Private Laws of 1895.
- Chapter 115, Public Laws of 1899.
- Chapter 111, Private Laws of 1901.
- Chapter 170, Private Laws of 1901.
- Chapter 278, Private Laws of 1901.
- Chapter 46, Private Laws of 1903.
- Chapter 99, Private Laws of 1903.
- Chapter 262, Private Laws of 1903.
- Chapter 350, Private Laws of 1905.

Chapter 81, Private Laws of 1907.
Chapter 117, Private Laws of 1907.
Chapter 379, Private Laws of 1907.
Chapter 319, Private Laws of 1909.
Chapter 330, Private Laws of 1909.
Chapter 120, Private Laws of 1911.
Chapter 257, Private Laws of 1913.
Chapter 262, Private Laws of 1913.
Chapter 487, Private Laws of 1913.
Chapter 127, Private Laws of 1913 (Ex. Sess.).
Chapter 341, Private Laws of 1915.
Chapter 299, Public-Local Laws of 1921, as to Elizabeth City only.
Chapter 50, Private Laws of 1921, except section 1.
Chapter 202, Private Laws of 1921.
Chapter 248, Private Laws of 1921.
Chapter 45, Private Laws of 1921 (Ex. Sess.).
Chapter 90, Private Laws of 1921 (Ex. Sess.).
Chapter 240, Public-Local Laws of 1923, as to Elizabeth City only.
Chapter 461, Public-Local Laws of 1923, as to Elizabeth City only.
Chapter 217, Private Laws of 1923.
Chapter 246, Private Laws of 1923.
Chapter 263, Public Laws of 1933, as to Elizabeth City only.
Chapter 232, Private Laws of 1933, as to Elizabeth City only.
Chapter 481, Public-Local Laws of 1939, except section 2.
Chapter 301, Session Laws of 1945.
Chapter 508, Session Laws of 1949.
Chapter 997, Session Laws of 1953.
Chapter 427, Session Laws of 1955.
Chapter 268, Session Laws of 1957.
Chapter 1450, Session Laws of 1957.
Chapter 84, Session Laws of 1959.
Chapter 24, Session Laws of 1963.
Chapter 158, Session Laws of 1963, except section 36.
Chapter 694, Session Laws of 1965.
Chapter 35, Session Laws of 1967.
Chapter 107, Session Laws of 1967.
Chapter 159, Session Laws of 1973.
Chapter 930, Session Laws of 1983 (Reg. Sess. 1984).
Chapter 844, Session Laws of 1985 (Reg. Sess. 1986).
Chapter 295, Session Laws of 1989.
Chapter 174, Session Laws of 1999.

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

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

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

SECTION 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 shall be abated or otherwise affected by this act.

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

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

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

In the General Assembly read three times and ratified this the 19th day of June, 2001.

Marc Basnight
President Pro Tempore of the Senate

James B. Black
Speaker of the House of Representatives