

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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2

SENATE BILL 150  
House Committee Substitute Favorable 6/29/21

Short Title: Morganton Amen./Boating Fine/Hildebran Elect. (Local)

Sponsors:

Referred to:

February 25, 2021

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A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF MORGANTON TO CLARIFY THE TIME PERIOD FOR FILLING VACANCIES IN THE OFFICE OF MAYOR AND PROVIDE THAT THE CITY MANAGER SHALL APPOINT THE CITY CLERK, TO UPDATE FINES FOR CERTAIN BOATING VIOLATIONS ON LAKE JAMES, AND TO PROVIDE THAT ELECTIONS FOR THE TOWN OF HILDEBRAN SHALL BE HELD IN EVEN-NUMBERED YEARS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Section 2.14 of the Charter of the City of Morganton, being Chapter 180 of the 1975 Session Laws, as amended by S.L. 1998-81, reads as rewritten:

"Sec. 2.14. Vacancy; absence or disability. – (a) A vacancy in the office of Mayor shall exist when a duly elected person fails to qualify or when a person who has been elected and has qualified dies, resigns, or no longer meets the requirements of Section 2.11 of this Charter, or is recalled. If a vacancy occurs in the office of Mayor, the Council ~~shall shall,~~ by majority ~~vote~~ vote, within 90 days following the date the vacancy occurs, appoint some qualified person to fill the office for the remainder of the unexpired term. The Mayor Pro Tempore shall discharge the powers and duties of the office of Mayor until the office is filled, ~~and he and,~~ during such period of service, shall receive the same compensation as received by the office of ~~Mayor during such period of service.~~ Mayor. The council seat of Mayor Pro Tempore is not vacant during any period in which the Mayor Pro Tempore discharges powers and duties of the office of Mayor.

(b) During the period of absence or disability of the Mayor, the Mayor Pro Tempore shall perform the powers and duties of the ~~Mayor during the period that such absence or disability exists.~~ Mayor. The inability of the Mayor to perform the duties of ~~his the~~ office shall be determined by the Council in accordance with the provisions of ~~G.S. 160A-70, except that the vote of the Mayor is not required in any such determination.~~ G.S. 160A-70."

**SECTION 2.** Section 2.15 of the Charter of the City of Morganton, being Chapter 180 of the 1975 Session Laws, as amended by Chapter 202 of the Session Laws of 1983, reads as rewritten:

"Sec. 2.15. Powers and duties. – (a) The Mayor shall be the official head of the City government. Consistent with the provisions of this Charter, ~~he the~~ Mayor shall be vested with all of the powers, duties, rights, privileges and immunities granted to and conferred on Mayors of Cities by the General Laws of North Carolina.

...

(d) The Mayor shall be authorized to appoint ~~for his information and assistance,~~ advisory boards, commissions, and committees, which shall be answerable to ~~him,~~ the Mayor, but whose actions shall be advisory in nature.



1 (e) The Mayor shall perform such other duties consistent with this Charter as may be  
2 conferred upon ~~him~~ the Mayor by ordinance of the Council."

3 **SECTION 3.** Section 3.12 of the Charter of the City of Morganton, being Chapter  
4 180 of the 1975 Session Laws, as amended, is repealed.

5 **SECTION 4.** Chapter 2 of Article IV of the Charter of the City of Morganton, being  
6 Chapter 180 of the 1975 Session Laws, as amended, reads as rewritten:

7 "Chapter 2. City Manager.

8 "Sec. 4.11. Appointment, qualifications, term. – The Council shall appoint a City Manager  
9 to serve at its pleasure. The City Manager shall be appointed solely on the basis of his or her  
10 executive and administrative qualifications, and ~~he~~ need not be a resident of the City or State  
11 when appointed.

12 "Sec. 4.12. Chief executive officer. – The City Manager shall be the chief executive officer  
13 of the City government. He or she shall be responsible to the Council for the proper and efficient  
14 administration of the City government.

15 ...."

16 **SECTION 5.** Section 4.21 of the Charter of the City of Morganton, being Chapter  
17 180 of the 1975 Session Laws, as amended, reads as rewritten:

18 "Sec. 4.21. City Clerk. – ~~The Council shall designate the City Manager as City Clerk. He~~  
19 ~~shall be responsible for keeping a journal of the proceedings of the Mayor and Council and~~  
20 ~~maintaining, in a safe place, all records and documents pertaining to the affairs of the City. The~~  
21 ~~manager shall be authorized to delegate his responsibilities as City Clerk. The City Manager shall~~  
22 appoint a City Clerk to serve at the City Manager's pleasure. The City Clerk shall act as secretary  
23 to the City Council, keep the originals of all ordinances in a book especially provided for that  
24 purpose, be responsible for giving notice of all meetings of the Council, keep a journal of the  
25 proceedings of the Mayor and Council, maintain in a safe place all records and documents  
26 pertaining to the affairs of the City, and perform any other duties that may be required by law,  
27 by the Council, or by the City Manager. The City Manager may appoint or provide for one or  
28 more deputy City Clerks who shall have full authority to exercise and perform any of the powers  
29 and duties of the City Clerk that the City Manager may specify."

30 **SECTION 6.** Chapter 5 of Article IV of the Charter of the City of Morganton, being  
31 Chapter 180 of the 1975 Session Laws, as amended, reads as rewritten:

32 "Chapter 5. Boards and Commissions.

33 "Sec. 4.41. General provisions. – ~~(a) Except as prescribed by General Law or special act of~~  
34 ~~the General Assembly, the voting members of the Council (not including the Mayor, except in~~  
35 ~~case of equal division)~~ shall have the authority to create commissions, councils or boards which  
36 shall perform duties prescribed by the Council, including, but not limited to, making studies,  
37 conducting research and investigations, holding hearings, and preparing recommendations as to  
38 needed ordinances and resolutions; provided, the voting members of the Council shall be  
39 authorized to designate and name certain boards, commissions and committees to be appointed  
40 solely by the Mayor.

41 "Sec. 4.42. Composition; appointment; bylaws. – (a) Except as otherwise provide by law,  
42 the voting members of the Council ~~(not including the Mayor, except in case of equal division)~~  
43 shall have the authority to provide for the manner of appointment, makeup and composition of  
44 such commissions, councils or boards, the periods of existence of same, and for the compensation  
45 of such members and employees of same, in whole or in part. The Council may provide by  
46 ordinance for reimbursement of the actual and necessary expenses incurred by the members  
47 thereof in the performance of their official duties. The Council shall have the authority to  
48 annually appropriate and donate money derived from contributions and other nontax revenues  
49 for and to such commissions, councils and boards to provide for their operation, either in whole  
50 or in part.

51 ...

1 (c) Any member of a board or commission may be removed from office for cause by a  
2 majority vote of ~~all of the voting council members.~~Council.  
3 ...."

4 **SECTION 7.(a)** Section 5 of S.L. 1963-502 reads as rewritten:

5 "Sec. 5. Any person who may be in actual physical control of the motor boat, or other water  
6 craft, in which any violation of the above provisions shall be committed, shall be considered to  
7 have been in control of the conduct of persons in such boat, and responsible for violations of this  
8 Act committed by such persons. Unless it be otherwise shown, the registered owner of any boat  
9 operated in violation of the provisions of this Article, shall be presumed to be the operator of the  
10 same at the time of such violation or violations. ~~Any Notwithstanding G.S. 15A-1340.23, any~~  
11 ~~person who is convicted of a violation of any of the provisions of this Act shall be guilty of a~~  
12 ~~Class 3 misdemeanor and shall be punished by a fine of not more than fifty dollars (\$50.00), or~~  
13 ~~be imprisoned for not more than thirty (30) days.~~two hundred fifty dollars (\$250.00)."

14 **SECTION 7.(b)** This section becomes effective December 1, 2021, and applies to  
15 offenses committed on or after that date.

16 **SECTION 8.(a)** Section 3 of the Charter of the Town of Hildebran, being Chapter  
17 212 of the Private Laws of 1899, as amended by Chapter 433 of the 1973 Session Laws and  
18 Chapter 238 of the 1993 Session Laws, reads as rewritten:

19 "Sec. 3. In 2024, and biennially thereafter, regular municipal elections shall be held in the  
20 Town on the Tuesday after the first Monday in November of even-numbered years in accordance  
21 with the uniform municipal election laws of North Carolina. The election shall be nonpartisan  
22 and decided by simple plurality pursuant to G.S. 163-292. The elective officers of the town shall  
23 be a mayor who shall be elected by the qualified voters of the town for a term of four years, and  
24 five commissioners, who shall be elected by the qualified voters of the town for terms of four  
25 years, except that in 1993, the three persons receiving the highest numbers of votes are elected  
26 for four-year terms, and the two persons receiving the next highest numbers of votes are elected  
27 for two-year terms. In 1995 and quadrennially thereafter, two persons are elected. In 1997 and  
28 quadrennially thereafter, three persons are elected. The expansion of the board of commissioners  
29 from three to five members is effective at the organizational meeting following the 1993  
30 municipal election. Beginning with the regular municipal election to be held in November 1973,  
31 the election shall be nonpartisan and decided by simple plurality. No primary election shall be  
32 held. The municipal elections shall be held and conducted by the County Board of Elections in  
33 accordance with Articles 23 and 24 of Chapter 163 of the General Statutes.~~years. In 2024, and~~  
34 ~~quadrennially thereafter, two commissioners shall be elected to four-year terms. In 2026, and~~  
35 ~~quadrennially thereafter, the Mayor and three commissioners shall be elected to four-year terms."~~

36 **SECTION 8.(b)** Regular municipal elections shall be conducted in the Town of  
37 Hildebran in 2021. The Mayor and three commissioners elected in 2021 shall serve five-year  
38 terms. The two commissioners elected in 2019 whose terms expire in 2023 are extended until  
39 2024. The next regular municipal election shall be conducted in the Town of Hildebran in 2024.

40 **SECTION 9.** Except as otherwise provided, this act is effective when it becomes  
41 law.