

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 358

Short Title: Kernersville Charter Rewrite.

(Local)

Sponsors: Representatives Duncan; Esposito, Decker, and Rhodes (co-sponsors).

Referred to: Government.

February 23, 1989

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF
KERNERSVILLE.

The General Assembly of North Carolina enacts:

Section 1. Incorporation and corporate powers.

The inhabitants of the Town of Kernersville, in Forsyth County, shall continue to be a body politic and corporate by the name of the "Town of Kernersville." Under that name the Town continues to be vested with all the property and rights of property which now belong to the corporation; shall have perpetual succession; may use a corporate seal; may acquire and hold such estate in lands and property as may be devised, bequeathed, sold to, or in any manner conveyed to it or acquired by it, and may from time to time, under the general law governing municipal corporations, invest, sell or dispose of any said lands or property, including lands and property held for municipal purposes; may contract and be contracted with; may sue and be sued; and shall have all the powers, rights and privileges now or hereafter conferred upon municipal corporations by the general law of the State, including powers, rights and privileges necessary or belonging to, or usually appertaining to municipal corporations, or appropriate to the exercise of the powers now or hereafter conferred on municipal corporations by the general law of the State.

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 Kernersville shall have, and may exercise, all powers which, under the Constitution of

1 North Carolina, it would be competent for this Charter specifically to enumerate. All
2 powers of the Town, whether expressed or implied, shall be exercised in the manner
3 prescribed by this Charter, or, if not prescribed therein, then in the manner provided by
4 ordinance or resolution of the governing body of the Town of Kernersville.

5 Sec. 3. Corporate boundaries.

6 Until changed in accordance with law, the corporate boundaries of the Town
7 of Kernersville shall be those in effect on the date of ratification of this act, and shall be
8 maintained in an official file by the Town Clerk. This file shall contain written land
9 description as well as a series of maps which delineate the current corporate boundaries.
10 This file shall be accessible to the public during normal business hours.

11 Sec. 4. Governing body; election; vacancies; organization and meetings;
12 quorum.

13 The governing body of the Town of Kernersville shall consist of a Mayor and
14 five Aldermen, who shall exercise the corporate powers of said Town, and provide for
15 the proper and efficient management of said Town in accordance with this Charter.
16 They shall have and exercise all powers now or hereafter conferred upon governing
17 bodies of municipalities by the general law of the State and that power and authority
18 granted by this Charter. The election of the Mayor and Aldermen shall be at large by
19 and from the qualified voters of the Town and shall be on a staggered basis as follows:
20 at the regular municipal election to be held in 1989, the three candidates who receive the
21 highest number of votes shall be elected for four-year terms, while the two candidates
22 who receive the next highest number of votes shall be elected for two-year terms. The
23 candidate for Mayor who receives the most votes shall be elected for a two-year term.
24 Beginning at the regular municipal election in 1991, and every four years thereafter, the
25 Mayor and two members of the Board of Aldermen shall be elected for four-year terms.
26 Beginning at the regular municipal election in 1993, and every four years thereafter,
27 three members of the Board of Aldermen shall be elected for four-year terms. Members
28 of the governing body shall be qualified electors of the Town of Kernersville. If a
29 vacancy occurs in the office of Aldermen, it shall be filled for the remainder of the
30 unexpired term by a majority vote of the remaining members of the Board of Aldermen;
31 and, if there be an equal division of vote, then by vote of the Mayor. If a vacancy
32 occurs in the office of Mayor it shall be filled for the remainder of the unexpired term
33 by a majority vote of the members of the Board of Aldermen. The Mayor and each
34 Alderman shall receive such compensation as the governing body shall from time to
35 time fix by ordinance; provided that neither the Mayor nor any Alderman shall receive
36 any increase in compensation during the current term for which they were elected.

37 On the first Tuesday of December following each election, the Mayor and
38 Board of Aldermen shall convene for the transaction of business and shall severally
39 take oath in accordance with G.S. 160A-61 and Chapter 11 of the General Statutes to
40 perform faithfully the duties of their respective offices. At the December meeting each
41 year, the Board of Aldermen shall choose one of its members as vice chairman who
42 shall also act as Mayor pro tem. The Board of Aldermen shall meet at such times as
43 may be prescribed by ordinance or resolution, but not less frequently than once each
44 month, and may adopt such rules and regulations as may be deemed necessary for the

1 regulation and conduct of meetings. Special meetings may be convened in accordance
2 with G.S. 160A-71 of the General Statutes. Except as provided for by G.S. 143-318.11,
3 all meetings of the Board of Aldermen shall be open to the public.

4 A majority of the members elected to the Board of Aldermen shall constitute
5 a quorum to do business, but a less number may adjourn from time to time and compel
6 the attendance of absent members in such manner and under such penalties as may be
7 prescribed by ordinance. The affirmative vote of a majority of the members of the
8 Board of Aldermen shall be necessary to adopt any ordinance, except when an
9 ordinance, or other action having the effect of any ordinance, is to be voted on on the
10 date on which it is introduced. In accordance with G.S. 160A-75, no ordinance nor any
11 action having the effect of any ordinance may be finally adopted on the date on which it
12 is introduced except by an affirmative vote equal to or greater than two-thirds of all the
13 actual membership of the council. All other matters to be voted upon shall be by a
14 majority vote of the members present. No member shall be excused from voting except
15 on matters involving the consideration of his own official conduct or when his financial
16 interests are involved, as set forth in G.S. 14-234.

17 Sec. 5. Ordinances and resolutions.

18 Ordinances shall be introduced in the Board of Aldermen only in written or
19 printed form. The adoption, amendment, repeal, pleading and proving of ordinances
20 shall be in accordance with the applicable provisions of the General Statutes of North
21 Carolina. The yeas and nays shall be taken upon the passage of all ordinances and
22 resolutions and entered upon the journal of the proceedings of the Board of Aldermen.
23 The enacting clause of all ordinances shall be: "Be it ordained by the Board of
24 Aldermen of the Town of Kernersville." All ordinances and resolutions shall take effect
25 upon adoption unless otherwise provided therein, and shall be entered unto an official
26 book of ordinances maintained by the Town Clerk.

27 Sec. 6. Mayor and Mayor pro tem.

28 The Mayor shall be the official head of the Town and shall preside at all the
29 meetings of the Board of Aldermen. Where there is any equal division upon any
30 question, including the election of officers and the filling of any vacancy in positions of
31 Aldermen, the Mayor shall determine the matter by his vote, and he shall vote in no
32 other case. The Mayor shall exercise such powers and perform such duties as are or
33 may be conferred and imposed upon him by the General Statutes of North Carolina, by
34 this Charter, and the ordinances of the Town of Kernersville. In case of the absence or
35 disability of the Mayor, the Mayor pro tem shall act as Mayor during the continuance of
36 the absence or disability.

37 Sec. 7. Municipal election.

38 Pursuant to G.S. 163-279, the regular municipal election for Mayor and
39 members of the Board of Aldermen shall be held on Tuesday after the first Monday in
40 November of 1973, and biennially thereafter.

41 Sec. 8. Regulation of elections.

42 All municipal elections shall be conducted in accordance with the General
43 Statutes of North Carolina relating to municipal elections, except as otherwise provided
44 herein.

1 Sec. 9. Candidate for municipal office.

2 Any qualified elector of the Town of Kernersville may file as a candidate for
3 the offices of Mayor or Alderman. The method of filing shall be as set forth in G.S.
4 163-294.2 The filing fees therefore shall be in accordance with G.S. 163-294.2, and
5 shall be determined from time to time by ordinance of the Board of Aldermen.

6 Sec. 10. Election of Mayor and Aldermen.

7 Every voter shall be entitled to vote for one candidate for Mayor and for a
8 number of candidates for the Board of Aldermen equal to the number of seats to be filed
9 in that election year. The candidate who receives the largest number of votes for Mayor
10 shall be declared elected. In a year when two seats on the Board of Aldermen are to be
11 filled, the two candidates who receive the largest number of votes shall be declared
12 elected. In a year when three seats on the Board of Aldermen are to be filled, the three
13 candidates who receive the largest number of votes shall be declared elected.

14 Sec. 11. Oath of office.

15 Every officer of the Town shall, before entering the duties of his office, take
16 and subscribe to the following oath of affirmation to be filed and kept in the office of
17 the Town Clerk:

18 "I,, do solemnly swear (or affirm) that I will support and maintain the
19 Constitution and laws of the United States, and the Constitution and laws of North
20 Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my
21 office as, so help me God."

22 Sec. 12. Form of government.

23 The form of government for the Town of Kernersville shall be the "Town
24 Manager" form of government as provided for in G.S. 160A-147 through G.S. 160A-
25 152, except as modified by this Charter.

26 Sec. 13. Town Manager; appointment, compensation, term, chief
27 administrator, duties.

28 The Board of Aldermen, as soon as practical after the effective date of this
29 act, shall appoint an officer whose title shall be the Town Manager, who shall be the
30 chief executive officer and the head of the administrative branch of the Town
31 government. The Town Manager shall be chosen by the Board of Aldermen solely on
32 the basis of his executive and administrative qualifications with special reference to his
33 actual experience in, or knowledge of, accepted practice in respect to the duties of his
34 office as hereinafter outlined. At the time of his appointment he need not be a resident
35 of the Town or State, but during his tenure of office he shall reside within the Town.
36 No person elected Mayor or to the Board of Aldermen shall be eligible for appointment
37 as Town Manager. The Town Manager shall serve at the pleasure of the Board of
38 Aldermen and he shall receive such compensation as the Board shall fix by ordinance.
39 In case of the absence or disability of the Manager, the Board may designate a qualified
40 administrative officer of the Town to perform the duties of the Manager during such
41 absence or disability.

42 The Town Manager shall be responsible to the Board of Aldermen for the
43 proper administration of all affairs of the Town. As chief administrator, the Town

1 Manager shall have the power to appoint and remove all officers and employees in the
2 administrative service of the Town, except the Town Attorney.

3 It shall be the duty of the Town Manager to supervise the administration of
4 the affairs of the Town, to see that the ordinances, resolutions and regulations of the
5 Board of Aldermen and the laws of the State are faithfully executed; to make such
6 recommendations to the Board of Aldermen concerning the affairs of the Town as he
7 shall deem expedient; to keep the Board of Aldermen advised of the financial condition
8 and the future financial needs of the Town; attend all meetings of the Board of
9 Aldermen and prepare and submit to the Board of Aldermen such reports as he may
10 deem expedient or as may be required of him by the Board of Aldermen; to perform all
11 other duties as may be required by the Board of Aldermen. The Town Manager shall be
12 the Budget Officer, in accordance with G.S. 159-9.

13 Sec. 14. Town Attorney.

14 The Board of Aldermen at their first meeting after each election, shall appoint
15 a Town Attorney who shall be an Attorney at Law licensed to practice in the State of
16 North Carolina and who need not be a resident of the Town of Kernersville at the time
17 of his appointment or thereafter. The Town Attorney shall be the chief legal advisor of
18 and Attorney for the Town and he shall perform such duties as are imposed upon the
19 chief legal officers of municipalities by law and perform such other duties of a legal
20 nature as the Board of Aldermen may require. He shall receive such compensation as
21 the Board of Aldermen may from time to time determine.

22 Sec. 15. Town Clerk.

23 The Town Clerk shall be appointed by the Town Manager and shall be
24 responsible to the Town Manager for the performance of his duties. It shall be the duty
25 of the Town Clerk to keep the journal of the meetings of the Board of Aldermen and to
26 keep and maintain in a safe place all records and documents pertaining to the affairs of
27 the Town. The Clerk shall perform such other duties as may be required by law or as
28 the Town Manager may direct.

29 Sec. 16. Town Tax Collector.

30 The Tax Collector shall be appointed by the Town Manager and it shall be the
31 duty of the Tax Collector to collect all taxes, licenses, fees and other moneys belonging
32 to the Town government, subject to the provisions of this Charter and ordinances
33 enacted thereunder, and he shall diligently comply with and enforce the general laws of
34 North Carolina relating to the collection, sale and foreclosure of taxes by municipalities.
35 The duties of the Tax Collector may be combined with the duties of some other office,
36 or may be contracted for with the County of Forsyth as the Board of Aldermen may
37 from time to time decide, in which case the current county tax collector shall be
38 appointed by the Town Manager as the Tax Collector for the Town.

39 Sec. 17. Kernersville Fire Department Fire Chief.

40 The Town Manager shall appoint the Chief of the Kernersville Fire
41 Department who shall be the commanding officer and administrator of the said
42 department.

43 Sec. 18. Police Chief; extraterritorial jurisdiction of town police.

1 The Town Manager shall appoint the Chief of the Kernersville Police
2 Department who shall be the commanding officer and administrator of the said
3 department.

4 The Chief of Police and all policemen of the Town of Kernersville are hereby
5 authorized and empowered to exercise all the powers and authority, which they now or
6 may hereafter have within the corporate limits, in all that territory embraced within one
7 mile in all directions from the present municipal limits of the Town, and for such
8 distance from any future extension of said corporate limits, in accordance with G.S.
9 160A-286 and G.S. 15A-402.

10 Sec. 19. Custody of Town money.

11 All moneys received by the Town for, or in connection with, the business of
12 the Town government shall be paid promptly into the Town depository. Institutions of
13 deposit shall be designated by the Board of Aldermen in accordance with such
14 regulations and requirements as set forth by the General Statutes and as deemed in the
15 best security of such funds by the Board of Aldermen. All interest on moneys
16 belonging to the Town shall accrue to the benefit of the Town government. All moneys
17 belonging to the Town government should be disbursed by the finance officer in
18 accordance with G.S. 159-25(a)(2).

19 Sec. 20. Issuance of bonds.

20 The Town may issue bonds for the purpose and in the manner prescribed by
21 the General Statutes for the issuance of bonds by municipalities.

22 Sec. 21. Purchases and contracts.

23 Purchases of supplies, materials or equipment shall be as prescribed by law in
24 North Carolina applicable to municipalities and in accordance with such ordinances
25 pursuant thereto as may be adopted by the Board of Aldermen. Contracts for Town
26 improvements and services shall be executed under and in accordance with the general
27 laws of North Carolina applicable to municipalities.

28 Sec. 22. Independent audit.

29 As soon as practical after the close of each fiscal year, an independent audit
30 shall be made of all accounts of the Town government by qualified public accountants,
31 selected by the Board of Aldermen, who have no personal interest directly or indirectly
32 in the financial affairs of the Town government or of any of its officers. The results of
33 this audit shall be available to any interested citizen and may be published if so ordered
34 by the Board of Aldermen.

35 Sec. 23. Personal interest.

36 Neither the Mayor nor any member of the Board of Aldermen nor any officer
37 or employee of the Town shall have a financial interest, direct or indirect, in any
38 contract with the Town or be financially interested, directly or indirectly, in the sale to
39 the Town of any land, materials, supplies, or services, except on behalf of the Town as
40 an officer or employee. Financial interest, for the purposes of this section, shall be as
41 defined in G.S. 14-234. Any violation of this section with knowledge, express or
42 implied, of the person or corporation contracting with the Town, shall render the
43 contract voidable by the Board of Aldermen.

44 Sec. 24. Title to properties used for certain purposes.

1 In the absence of any contracts with the Town in relation to any lands used or
2 occupied for the purposes of streets, sidewalks, alleys, or other public works of said
3 Town signed by the owner thereof or his agent, it shall be presumed that the said land
4 had been granted to the Town by the owner or owners thereof, and said Town shall have
5 good right and title thereto, and shall have, hold and enjoy the same.

6 Sec. 25. Street improvements and assessments for the cost thereof.

7 (a) In addition to the authority that may now or hereafter be granted by general
8 law to the Town of Kernersville for making street improvements and providing for the
9 assessment of the costs thereof against abutting property owners, the Board of
10 Aldermen is authorized to make street improvements to streets and assess the cost
11 thereof in accordance with the requirements of this section.

12 (b) Whenever a majority of the owners owning a majority of the lineal footage of
13 property abutting a street which is not more than six blocks in length or a maximum
14 total distance of 3,000 linear feet, are unwilling or fail to petition for a needed street
15 improvement, the Board of Aldermen may order such improvement without petition,
16 and may assess the total cost, or any part thereof, less the cost at street intersections,
17 against the abutting property owners at an equal rate per front foot; provided, no street
18 improvement without petition shall be ordered or undertaken and the cost thereof
19 assessed to abutting property owners as authorized herein unless and until the Board of
20 Aldermen finds as a fact:

21 (1) That the street improvement project does not exceed six blocks in
22 length or a maximum total distance of 3,000 linear feet; and

23 (2) That such street or part thereof is unsafe for vehicular traffic and it is
24 in the best public interest to make such improvement; or

25 (3) That it is in the best public interest and for the welfare of the citizens
26 of the Town to connect two streets already paved.

27 (c) Street improvements authorized by this section shall include grading,
28 regrading, surfacing or resurfacing, widening, and the construction or reconstruction of
29 curbs, gutters and street drainage facilities.

30 (d) In ordering street improvements and levying assessments for the cost thereof
31 under the authority granted by this section, the Board of Aldermen shall, at all times,
32 comply with current State law concerning assessments and street improvements.

33 (e) The authority granted to the Town of Kernersville by this section shall
34 not be exercised by the Board of Aldermen unless four of the five members of the Board
35 of Aldermen who are present and voting at a regular or special meeting cast their vote in
36 favor of the use of this method for improving a street or part of a street in accordance
37 with the requirements of this section.

38 Sec. 26. Repair of sidewalks.

39 That the governing body may require the owner or lessee of the land abutting
40 upon sidewalks to repair same at such owner's or lessee's expense, and to keep same in
41 good condition; or they may require the owners of property to pave, at their own
42 expense, the sidewalks immediately fronting said lot, or upon the failure of the owner,
43 after due notice to so pave such sidewalk, such work may be done by the Town, and the

1 cost thereof assessed against the lot immediately against such abutting lot, collectible as
2 and when the taxes for the next fiscal year are due and collectible.

3 Sec. 27. Subdivision control authority.

4 The governing body of the Town of Kernersville is hereby authorized to
5 exercise any and all power and authority that may now or hereafter be granted to
6 municipalities of this State by general law to control and regulate the platting and
7 recording of the subdivisions of land both within and outside of the corporate limits of
8 the Town.

9 Sec. 28. Repeal of prior acts.

10 (a) The following acts are repealed as they apply to the Town of Kernersville:

11 (1) Chapter 47, Session Laws of 1963, except for Section 37.

12 (2) Chapter 49, Session Laws of 1965.

13 (3) Chapter 949, Session Laws of 1965.

14 (4) Chapter 132, Session Laws of 1967.

15 (5) Chapter 655, Session Laws of 1969.

16 (6) Chapter 963, Session Laws of 1969, except for Section 8.

17 (b) This act does not repeal the following acts as they apply to the Town of
18 Kernersville:

19 (1) Chapter 501, Session Laws of 1971.

20 (2) Chapter 1106, Session Laws of 1979.

21 (3) Chapter 54, Session Laws of 1987.

22 (4) Chapter 920, Session Laws of 1987.

23 (5) Chapter 382, Session Laws of 1967, as amended by Chapter 274,
24 Session Laws of 1969.

25 Sec. 29. Saving clause.

26 If any part of this Charter shall be declared invalid by a court of competent
27 jurisdiction, such judgment shall not invalidate the remainder of the Charter. The
28 provisions of this Charter shall supersede all laws and ordinances not consistent
29 herewith, insofar as the Town of Kernersville is affected thereby.

30 Sec. 30. This act is effective upon ratification.