

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 869

Short Title: Wrightsville Beach Charter.

(Local)

Sponsors: Representatives Payne and Hall.

Referred to: Government.

March 27, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF
3 WRIGHTSVILLE BEACH.

4 The General Assembly of North Carolina enacts:

5 Section 1. The Charter of the Town of Wrightsville Beach is revised and
6 consolidated to read:

7 "THE CHARTER OF THE TOWN OF WRIGHTSVILLE BEACH.

8 "ARTICLE I.

9 "INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

10 "Section 1.1. **Incorporation.** The Town of Wrightsville Beach, North Carolina, in
11 New Hanover County and the inhabitants thereof shall continue to be a municipal body
12 politic and corporate, under the name of the 'Town of Wrightsville Beach', hereinafter
13 at times referred to as the 'Town'.

14 "Sec. 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties,
15 rights, privileges and immunities conferred upon the Town of Wrightsville Beach
16 specifically by this Charter or upon municipal corporations by general law. The term
17 'general law' is employed herein as defined in G.S. 160A-1.

18 "Sec. 1.3. **Corporate limits.** The corporate limits shall be those existing at the time
19 of ratification of this Charter, as set forth on the official map of the Town and as they
20 may be altered from time to time in accordance with law. An official map of the Town,
21 showing the current boundaries, shall be maintained permanently in the office of the
22 Town Clerk and shall be available for public inspection. Immediately upon alteration of
23 the corporate limits made pursuant to law, the appropriate changes to the official map

1 shall be made and copies shall be filed in the office of the Secretary of State, the New
2 Hanover County Register of Deeds and the appropriate board of elections.

3 **"ARTICLE II.**

4 **"GOVERNING BODY.**

5 "Sec. 2.1. **Mayor and Board of Aldermen.** The Mayor and Town Board of
6 Aldermen, hereinafter referred to as the 'Board,' shall be the governing body of the
7 Town.

8 "Sec. 2.2. **Board of Aldermen; composition; terms of office.** The Board shall be
9 composed of four members elected by all the qualified voters of the Town for staggered
10 terms of four years or until their successors are elected and qualified.

11 "Sec. 2.3. **Mayor; term of office; duties.** The Mayor shall be elected by all the
12 qualified voters of the Town for a term of two years or until his or her successor is
13 elected and qualified; shall be the official head of the Town government and preside at
14 meetings of the Board; shall have the right to vote on all matters before the Board; and
15 shall exercise the powers and duties conferred by law or as directed by the Board.

16 "Sec. 2.4. **Mayor Pro Tempore.** The Board shall elect one of its members as
17 Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or
18 disability, in accordance with general law. The Mayor Pro Tempore shall serve in such
19 capacity at the pleasure of the other members of the Board.

20 "Sec. 2.5. **Meetings.** In accordance with general law, the Board shall establish a
21 suitable time and place for its regular meetings. Special and emergency meetings may
22 be held as provided by general law.

23 "Sec. 2.6. **Voting requirements; quorum.** Official actions of the Board and all
24 votes shall be taken in accordance with applicable provisions of general law,
25 particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

26 "Sec. 2.7. **Compensation; qualifications for office; vacancies.** The compensation
27 and qualifications of the Mayor and Board members shall be in accordance with general
28 law. Vacancies that occur in any elective office of the Town shall be filled by
29 appointment as provided in G.S. 160A-63.

30 "Sec. 2.8. **Board of adjustment.** Notwithstanding the provisions of G.S. 160A-
31 388, the Town Board shall serve as the Board of Adjustment and shall have and may
32 exercise the same powers and duties as are granted by law to appointed boards of
33 adjustment.

34 **"ARTICLE III.**

35 **"ELECTIONS.**

36 "Sec. 3.1. **Regular municipal elections.** Regular municipal elections shall be held
37 in each odd-numbered year in accordance with the uniform municipal election laws of
38 North Carolina. Elections are conducted on a nonpartisan basis and the results
39 determined using the nonpartisan plurality method as provided in G.S. 163-292.

40 "Sec. 3.2. **Election of Board members.** The Board members serving on the date of
41 ratification of this Charter shall serve until the expiration of their term or until their
42 successors are elected and qualified. In the regular municipal election in 1989, and
43 every four years thereafter, there shall be elected two Board members to serve as
44 provided in Article II of this Charter. In the regular municipal election in 1991, and

1 every four years thereafter, there shall be elected two Board members to serve as
2 provided in Article II.

3 "Sec. 3.3. **Election of Mayor.** A Mayor shall be elected in each regular municipal
4 election.

5 "Sec. 3.4. **Special elections and referendums.** Special elections and referendums
6 may be held only as provided by this Charter, general law or applicable local acts of the
7 General Assembly.

8 "ARTICLE IV.

9 "ORGANIZATION AND ADMINISTRATION.

10 "Sec. 4.1. **Form of government.** The Town shall operate under the council-
11 manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of
12 the General Statutes.

13 "Sec. 4.2. **Town Manager.** The Board shall appoint a Town Manager who shall be
14 responsible for the administration of all departments of the Town government. The
15 Town Manager shall have all the powers and duties conferred by general law, except as
16 expressly limited by the provisions of this Charter.

17 "Sec. 4.3. **Town Clerk.** The Town Manager shall appoint a Town Clerk to keep a
18 journal of the proceedings of the Board; to maintain official records and documents; to
19 give notice of meetings; and to perform such other duties required by law or as the
20 Town Manager may direct.

21 "Sec. 4.4. **Tax collector.** The Board shall appoint a Tax Collector pursuant to G.S.
22 105-349 to collect all taxes owed to the Town, subject to general law, this Charter and
23 Town ordinances.

24 "Sec. 4.5. **Town Attorney.** The Board shall appoint a Town Attorney licensed to
25 practice law in North Carolina. It shall be the duty of the Town Attorney to represent
26 the Town, advise Town officials and perform other duties required by law or as the
27 Board may direct.

28 "Sec. 4.6. **Other administrative officers and employees.** The Board may provide
29 for appointment of other officers and employees by the Town Manager, and may
30 organize the Town government as deemed appropriate, subject to the requirements of
31 general law.

32 "ARTICLE V.

33 "SPECIAL ASSESSMENT PROVISIONS.

34 "Sec. 5.1. Assessment for street improvements; petition unnecessary.

35 (a) In addition to any authority granted by general law, the Board is hereby
36 authorized to order street improvements and to assess the costs thereof against abutting
37 property in accordance with the provisions of this Article.

38 (b) The Board may order street improvements and assess the total costs thereof
39 against abutting property, exclusive of the costs incurred at street intersections,
40 according to one or more of the assessment bases set forth in Article 10 of Chapter
41 160A of the General Statutes without the necessity of a petition, upon the following
42 findings of fact:

43 (1) That the street improvement project does not exceed 1,200 linear feet;
44 and

- 1 (2) That such street or part thereof is unsafe for vehicular traffic or creates
2 a safety or health hazard and it is in the public interest to make such
3 improvements; or
4 (3) That it is in the public interest to connect two streets or portions of a
5 street already improved; or
6 (4) That it is in the public interest to widen a street, or part thereof, which
7 is already improved; provided that assessments for widening any street
8 or portion of a street without a petition shall be limited to the cost of
9 widening and otherwise improving such street in accordance with
10 street classification and improvement standards established by the
11 Town, as applied to the particular street or part thereof.

12 (c) For the purposes of this Article, the term 'street improvement' includes
13 grading, regrading, surfacing, resurfacing, widening, paving, repaving, acquisition of
14 right-of-way and construction or reconstruction of curbs, gutters and street drainage
15 facilities.

16 "Sec. 5.2. **Assessments for sidewalk improvement; petition unnecessary.** In
17 addition to any authority granted by general law, the Board is hereby authorized,
18 without the necessity of petition, to order sidewalk improvements or repairs according
19 to standards and specifications of the Town, and to assess the total costs thereof against
20 abutting property, according to one or more of the assessment bases set forth in Article
21 10 of Chapter 160A of the General Statutes; provided that regardless of the assessment
22 basis or bases employed, the Board may order the costs of sidewalk improvements made
23 only on one side of a street to be assessed against property abutting both sides of such
24 street.

25 "Sec. 5.3. **Procedure; effect of assessments.** In ordering street and sidewalk
26 improvements without a petition and assessing the costs thereof under authority of this
27 Article, the Board shall comply with the procedures required by Article 10 of Chapter
28 160A of the General Statutes, except those provisions relating to petitions of property
29 owners and sufficiency thereof. The effect of the act of levying assessments under
30 authority of this Article shall be the same as if assessments were levied under authority
31 of Article 10 of Chapter 160A of the General Statutes.

32 "ARTICLE VI.

33 "ADOPTION OF ORDINANCES BY INITIATIVE AND REFERENDUM.

34 "Sec. 6.1. **Initiative ordinances generally; petitions.** Any proposed ordinance,
35 which the Board may lawfully adopt, may be submitted to the Board by petition signed
36 by the voters of the Town. If the petition accompanying the proposed ordinance is
37 signed by voters of the Town equal in number to at least thirty-five percent (35%) of the
38 voters voting in the last preceding regular election and contains a request that such
39 ordinance be submitted to a vote of the people if not passed by the Board, the Board
40 shall either: (i) adopt the ordinance without alteration within 20 days after the Town
41 Clerk and the New Hanover County Board of Elections have certified the sufficiency of
42 the accompanying petition; or (ii) within 20 days after the Town Clerk and the New
43 Hanover County Board of Elections have certified the sufficiency of the petition, the
44 Board of Aldermen shall call a special election to be held within six months, unless a

1 general election is fixed within six months thereafter. At such special or general
2 election the ordinance shall be submitted without alteration to the voters of the Town.

3 "Sec. 6.2. **Form of ballots; passage of referendum; repeal or amendment.** The
4 ballots used when voting upon such ordinances shall contain these words: 'For the
5 ordinance' (stating the nature of the proposed ordinance) and 'Against the ordinance'
6 (stating the nature of the proposed ordinance). If a majority of the qualified voters
7 voting on the proposed ordinance shall vote in favor thereof, such ordinance shall
8 thereupon become a valid and binding ordinance of the Town. Any ordinance proposed
9 by petition or which shall be adopted by the vote of the people may be repealed or
10 amended by the Board; provided, however, that such ordinance may not be repealed or
11 amended earlier than two years following the effective date of such ordinance.

12 "Sec. 6.3. **Number of ordinances on ballot; limitation on number of special**
13 **elections.** Any number of proposed ordinances may be voted upon at the same election
14 in accordance with the provisions of this section, but there shall not be more than one
15 special election in any period of six months for such purpose.

16 "Sec. 6.4. **Publication of notice of election.** Whenever any ordinance is required
17 by this section to be submitted to voters of the Town at any election, the Town Clerk
18 shall cause such ordinance to be published once in a newspaper published daily in New
19 Hanover County. Such publication shall not be more than 20 nor less than five days
20 before the date fixed for the special or general election.

21 "Sec. 6.5. **Sufficiency of petition.** The petition provided for herein shall be signed
22 by none but legal voters of the Town. Each petition shall contain, in addition to the
23 names of the petitioners, the street and house number at which each petitioner resides,
24 and his or her age and length of residence in the Town. It shall also be accompanied by
25 the affidavit of one or more legal voters of the Town, stating that the signers thereof
26 were, at the time of the signing, legal voters of the Town, and stating the number of
27 signers at the time the affidavit was made.

28 "ARTICLE VII.

29 "ADDITIONAL PROVISIONS.

30 "Sec. 7.1. **Development over water and anchorage of vessels.** The Town Board
31 may regulate by ordinance development over and anchorage of vessels on estuarine
32 waters and over lands covered by navigable waters and owned by the State pursuant to
33 G.S. 146-12, that are within the zoning jurisdiction of the Town. In addition to the
34 authority granted in G.S. 160A-381 concerning general zoning power, the Town may
35 also regulate the location and use of floating homes.

36 "Sec. 7.2. **Ocean activities.** The Town Board may adopt ordinances to regulate and
37 control swimming, surfing and littering in the Atlantic Ocean and other waterways
38 adjacent to the Town and lying within its boundaries or within its extraterritorial
39 jurisdiction established pursuant to G.S. 160A-360; provided, however, nothing
40 contained herein shall be construed to permit the Town to prohibit altogether swimming
41 and surfing or to make these activities unlawful.

42 "Sec. 7.3. **Fishing from bridges.** In addition to the authority granted municipalities
43 in G.S. 160A-302.1, the Town Board is authorized to enact ordinances prohibiting or
44 regulating fishing from any bridge for any purpose relating to public safety.

1 "Sec. 7.4. **Vehicles on beaches.** Notwithstanding the provisions of G.S. 160A-308,
2 the Town Board is authorized to enact ordinances to regulate, restrict and prohibit the
3 use of dune or beach buggies, jeeps, motorcycles, cars, trucks, or any other form of
4 power-driven vehicle specified by the Board on the foreshore, beach strand and barrier
5 dune system by commercial fishermen for commercial activities.

6 "Sec. 7.5. **Removal of trees.** The Town is authorized to enact ordinances to
7 regulate the removal of trees from public and private property within its jurisdiction in
8 order to preserve, protect and enhance one of the most valuable natural resources of the
9 community and to protect and enhance the public health, safety and welfare of its
10 citizens. Such ordinances by their terms may be made applicable to areas over which
11 the Town is authorized to exercise extraterritorial jurisdiction pursuant to G.S. 160A-
12 360 subject to approval of any other local government units having jurisdiction over the
13 extraterritorial areas to be regulated. The boundaries of any extraterritorial jurisdiction
14 shall be designated utilizing the standards and procedures set forth in G.S. 160A-360
15 and may include areas under county or city/county jurisdiction with approval of the
16 relevant governing body. Provided, however, that no ordinance enacted pursuant to this
17 section shall apply to any agricultural land, forestland, or horticultural land as defined in
18 G.S. 105-277.2.

19 "Sec. 7.6. **Building permits.** Notwithstanding the provisions of G.S. 160A-417 and
20 Article 9 or 9C of Chapter 143 of the General Statutes, the Town Board may require
21 permits (as provided by G.S. 160A-417 and Article 9 or 9C of Chapter 143 of the
22 General Statutes) for any construction, installation, repair, replacement or alteration
23 costing five thousand dollars (\$5,000) or less in any single family residence."

24 Sec. 2. The purpose of this act is to revise the Charter of the Town of
25 Wrightsville Beach and to consolidate certain acts concerning the property, affairs and
26 government of the Town. It is intended to continue without interruption those
27 provisions of prior acts which are expressly consolidated into this act, so that all rights
28 and liabilities which have accrued are preserved and may be enforced.

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

32 Sec. 4. All local acts in conflict with this act are repealed. The following
33 acts having served the purposes for which they were enacted or having been
34 consolidated into this act, are expressly repealed:

35 Chapter 305, Private Laws of 1899

36 Chapter 355, Public Laws of 1903, as to Wrightsville Beach only

37 Chapter 393, Private Laws of 1911

38 Chapter 280, Public Laws of 1915

39 Chapter 88, Private Laws of 1921

40 Chapter 219, Private Laws of 1921

41 Chapter 223, Private Laws of 1921

42 Chapter 268, Public-Local Laws of 1923

43 Chapter 159, Private Laws of 1925

44 Chapter 196, Private Laws of 1927

- 1 Chapter 227, Private Laws of 1933
2 Chapter 493, Public-Local Laws of 1935
3 Chapter 444, Public-Local Laws of 1937
4 Chapter 655, Session Laws of 1943
5 Chapter 284, Session Laws of 1947, as to Wrightsville Beach only
6 Chapter 637, Session Laws of 1951
7 Chapter 789, Session Laws of 1951
8 Chapter 670, Session Laws of 1955
9 Chapter 772, Session Laws of 1955
10 Chapter 1302, Session Laws of 1959
11 Chapter 417, Session Laws of 1969
12 Chapter 539, Session Laws of 1973, as to Wrightsville Beach only
13 Chapter 605, Session Laws of 1985
14 Chapter 786, Session Laws of 1987, as to Wrightsville Beach only.
15 Sec. 5. The Mayor and Aldermen serving on the date of ratification of this
16 act shall serve until the expiration of their term. Thereafter, those offices shall be filled
17 as provided in Articles II and III of the Charter contained in Section 1 of this act.
18 Sec. 6. This act does not affect any rights or interests which arose under any
19 provisions repealed by this act.
20 Sec. 7. All existing ordinances, resolutions and other provisions of the Town
21 of Wrightsville Beach not inconsistent with the provisions of this act shall continue in
22 effect until repealed or amended.
23 Sec. 8. No action or proceeding pending on the effective date of this act by or
24 against the Town or any of its departments or agencies shall be abated or otherwise
25 affected by this act.
26 Sec. 9. If any provision or application of this act is held invalid, such
27 invalidity shall not affect other provisions or applications of this act which can be given
28 effect without the invalid provision or application, and to this end the provisions of this
29 act are declared to be severable.
30 Sec. 10. Whenever a reference is made in this act to the particular provision
31 of the General Statutes, and such provision is later amended, superseded or recodified,
32 the reference shall be deemed amended to refer to the amended General Statute, or to
33 the General Statute which most clearly corresponds to the statutory provision which is
34 superseded or recodified.
35 Sec. 11. This act is effective upon ratification.