

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 648\*  
Committee Substitute Favorable 4/12/99

Short Title: Benson Charter Revised.

(Local)

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Sponsors:

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Referred to:

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March 29, 1999

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Benson is revised and consolidated to  
read as follows:

**"THE CHARTER OF THE TOWN OF BENSON.**

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

"Section 1.1. **Incorporation.** The Town of Benson, North Carolina, in Johnston  
County and the inhabitants thereof shall continue to be a municipal body politic and  
corporate, under the name of the 'Town of Benson', hereinafter at times referred to as the  
'Town'.

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers,  
duties, rights, privileges, and immunities conferred upon the Town of Benson 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 Boundaries.** The corporate boundaries shall be those  
existing at the time of ratification of this Charter, as set forth on the official map of the  
Town and as they may be altered from time to time in accordance with law. An official

1 map of the Town, showing the current municipal boundaries, shall be maintained  
2 permanently in the office of the Town Clerk and shall be available for public inspection.  
3 Upon alteration of the corporate limits pursuant to law, the appropriate changes to the  
4 official map shall be made and copies shall be filed in the office of the Secretary of State,  
5 the Johnston County Register of Deeds, and the appropriate board of elections.

6 **"ARTICLE II. GOVERNING BODY.**

7 "Section 2.1. **Town Governing Body; Composition.** The Board of Commissioners,  
8 hereinafter referred to as the 'Board', and the Mayor shall be the governing body of the  
9 Town.

10 "Section 2.2. **Town Board; Composition; Terms of Office.** The Board shall be  
11 composed of six members to be elected in the manner provided in Article III for terms of  
12 four years, or until their successors are elected and qualified.

13 "Section 2.3. **Mayor; Duties.** The Mayor shall be elected by and from the qualified  
14 voters of the Town voting at large in the manner provided in Article III for a term of two  
15 years or until his or her successor is elected and qualified. The Mayor shall be the  
16 official head of the Town government and shall preside at meetings of the Board. Where  
17 there is an equal division upon any question, or upon the appointment of officers, the  
18 Mayor shall determine the matter by his or her vote, but he or she shall vote in no other  
19 case. The Mayor shall exercise such powers and perform such duties as are or may be  
20 conferred upon him or her by the general laws of North Carolina, by this Charter, and by  
21 the ordinances of the Town.

22 "Section 2.4. **Mayor Pro Tempore.** The Board shall choose one of its members to  
23 act as Mayor Pro Tempore, and he or she shall perform the duties of the Mayor in the  
24 Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term  
25 of office, but shall serve in such capacity at the pleasure of the remaining members of the  
26 Board.

27 "Section 2.5. **Meetings; Quorum.** In accordance with general law, the Board shall  
28 establish a suitable time and place for its regular meetings. Special and emergency  
29 meetings may be held as provided by general law. The quorum provisions of G.S. 160A-  
30 74 shall apply.

31 "Section 2.6. **Voting.** Four affirmative votes, which may include the vote of the  
32 Mayor in the event of equal division among the Board, shall be necessary to adopt any  
33 ordinance or any resolution or motion having the effect of an ordinance. All other  
34 matters to be voted upon shall be decided by a majority vote of those present and voting.

35 "Section 2.7. **Ordinances and Resolutions.** The adoption, amendment, repeal,  
36 pleading, or proving of ordinances shall be in accordance with the applicable provisions  
37 of the general laws not inconsistent with this Charter. The yeas and nays shall be taken  
38 upon all ordinances and resolutions and entered upon the minutes of the Board. The  
39 enacting clause of all ordinances shall read: 'Be it ordained by the Board of  
40 Commissioners of the Town of Benson'. All ordinances and resolutions shall take effect  
41 upon adoption unless otherwise provided therein.

42 "Section 2.8. **Qualifications for Office; Compensation; Vacancies.** The  
43 qualifications and compensation of the Mayor and the Board shall be in accordance with

1 general law. In the event a vacancy occurs in the office of Mayor, the Board shall by a  
2 majority vote appoint some qualified person to fill the same for the remainder of the  
3 unexpired term. Any vacancy on the Board shall be filled by majority vote of the  
4 remaining members of the Board for the remainder of the unexpired term. The person  
5 appointed to fill a vacancy in the office of Board member for District 1, 2, or 3 must  
6 reside in the district for which appointed.

### 7 "ARTICLE III. ELECTIONS.

8 "Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be  
9 held in each odd-numbered year in accordance with the uniform municipal election laws  
10 of North Carolina. Elections shall be conducted on a nonpartisan basis and the results  
11 determined using the nonpartisan plurality election method as provided in G.S. 163-  
12 279(a)(1) and G.S. 163-292.

13 "Section 3.2. **Election of Mayor.** A Mayor shall be elected in each regular  
14 municipal election.

15 "Section 3.3. **Election of Commissioners.** The Commissioners serving on the date  
16 of ratification of this Charter shall serve until the expiration of their terms or until their  
17 successors are elected and qualified. In the 1999 election and every four years thereafter,  
18 three Commissioners shall be elected, one each for Districts 1, 2, and 3 as the same are  
19 described in Section 3.5 of this Article. Only voters residing in a district may vote for the  
20 Commissioner for that district. In the 2001 election and every four years thereafter, three  
21 Commissioners shall be elected by the voters of the entire Town.

22 "Section 3.4. **Voting.** In each election, each voter shall be entitled to vote for one  
23 candidate for Mayor. In each election in which Commissioners for Districts 1, 2, and 3  
24 are being chosen, each voter shall be entitled to vote for one candidate for Commissioner  
25 for the district in which the voter resides. In each election in which the three  
26 Commissioners to be elected by the entire Town are being chosen, the names of all  
27 candidates for those offices shall be placed on a single ballot and each voter shall be  
28 entitled to vote for one candidate only.

29 "Section 3.5. **District Boundaries.** The Districts for the election of Commissioners  
30 are:

31 District 1. The eastern side of Town included within the following line beginning at  
32 the intersection of Market Street with the southern Town limits and running clockwise to  
33 the same point as follows: North on Market Street to Brooklyn Street, east on Brooklyn  
34 to the western side of Interstate 95, north along the western side of Interstate 95 one  
35 block to Harnett Street, west on Harnett one block to George Street, north on George (or  
36 the line George would follow if extended north at that point) one block to Parrish Street,  
37 west on Parrish to Dunn Street, north on Dunn three blocks to Hill Street, east on Hill to  
38 Catherine Street, north on Catherine to Morris Avenue, east on Morris to Hall Street,  
39 north on Hall two blocks to Branch Street, west on Branch to Johnson Street, north on  
40 Johnson to U.S. Highway 301, east on 301 to the Town limits, then south and clockwise  
41 along the Town limits to the starting point.

42 District 2. The middle portion of the Town included between the western boundary of  
43 District 1 and the following line running south to north from its beginning at the

1 intersection of Ryals Street and Mann Street at the southern Town limits: North on Ryals  
2 Street four blocks to Harnett Street, east on Harnett to Farmer Road, north on Farmer two  
3 blocks to Main Street, east on Main one block to Wall Street, north on Wall one block to  
4 Church Street, east on Church one block to the railroad tracks, north on the railroad  
5 tracks to the Town limits at U.S. Highway 301.

6 District 3. The western side of Town including all of the Town west of the line  
7 described above as the boundary for District 2.

8 "Section 3.6. **Special Elections and Referenda.** Special elections and referenda may  
9 be held only as provided by general law or applicable local acts of the General Assembly.

#### 10 **"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.**

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

14 "Section 4.2. **Town Manager; Appointment; Powers and Duties.** The Board shall  
15 appoint a Town Manager who shall be responsible for the administration of all  
16 departments of the Town government. The Town Manager shall have all the powers and  
17 duties conferred by general law, except as expressly limited by the provisions of this  
18 Charter, and the additional powers and duties conferred by the Board, so far as authorized  
19 by general law.

20 "Section 4.3. **Town Clerk.** The Board shall appoint a Town Clerk to keep a journal  
21 of the proceedings of the Board, to maintain official records and documents, to give  
22 notice of meetings, and to perform such other duties required by law or as the Board may  
23 direct.

24 "Section 4.4. **Finance Director.** The Board shall appoint a Finance Director to  
25 perform the duties designated in G.S. 159-25 and such other duties as may be prescribed  
26 by law or assigned by the Board.

27 "Section 4.5. **Tax Collector.** The Board shall appoint a Tax Collector pursuant to  
28 G.S. 105-349 to collect all taxes owed to the Town, subject to general law, this Charter,  
29 and Town ordinances.

30 "Section 4.6. **Town Attorney.** The Board shall appoint a Town Attorney licensed to  
31 practice law in North Carolina. It shall be the duty of the Town Attorney to represent the  
32 Town, advise Town officials, and perform other duties required by law or as the Board  
33 may direct. The Town Attorney shall serve at the pleasure of the Board and shall receive  
34 such compensation as the Board shall determine.

35 "Section 4.7. **Other Administrative Officers and Employees.** The Board may  
36 authorize other positions to be filled by appointment by the Town Manager, and may  
37 organize the Town government as deemed appropriate, subject to the requirements of  
38 general law.

#### 39 **"ARTICLE V. REGULATORY JURISDICTION.**

40 "Section 5.1. **Effect of Ordinances on Town Property.** All applicable ordinances  
41 of the Town shall have full force and effect upon and within all property, rights-of-way,  
42 and facilities owned or leased by the Town, whether located within or outside the  
43 corporate limits.

**"ARTICLE VI. POLICE.**

"Section 6.1. **Jurisdiction Extended.** In addition to their authority within the corporate limits, Town police shall have all the powers invested in law-enforcement officers by statute or common law within one and one-half miles of the corporate limits of the Town, and on all property owned by or leased to the Town wherever located.

**"ARTICLE VII. STREETS AND SIDEWALKS.**

"Section 7.1. **Assessments for Street Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making street improvements, the Board is authorized to order to be made or to make street improvements according to the standards and specifications of the Town and to assess the total costs, or a portion thereof, against abutting property owners in accordance with the provisions of this Article.

"Section 7.2. **When Petition Unnecessary.** The Board may order street improvements and assess the total costs or a portion thereof, exclusive of the costs incurred at street intersections, against the abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, without the necessity of a petition, upon the finding by the Board of one of the following:

- (1) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement.
- (2) That it is in the public interest to connect two streets or portions of a street already improved.
- (3) That it is in the public interest to widen a street, or part thereof, that is already improved, except that assessments for widening any street or portion of a street without petition shall be limited to the cost of widening and otherwise improving the street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Section 7.3. **Street Improvement Defined.** 'Street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, and repaving streets, the acquisition of rights-of-way, and the construction or reconstruction of curbs, gutters, and street drainage facilities.

"Section 7.4. **Sidewalk Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making sidewalk improvements, the Board is authorized to order to be made or to make sidewalk improvements or repairs according to the standards and specifications of the Town, and to assess the total costs, or a portion thereof, against abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, except that the Board may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of the street.

1 "Section 7.5. **Assessment Procedure.** In ordering street or sidewalk improvements  
2 without a petition and assessing the cost thereof under authority of this Article, the Board  
3 shall comply with the procedure provided by Article 10 of Chapter 160A of the General  
4 Statutes, except those provisions relating to the petition of property owners and the  
5 sufficiency thereof.

6 "Section 7.6. **Effect of Assessments.** The effect of the act of levying assessments  
7 under authority of this Article shall for all purposes be the same as if the assessments  
8 were levied under authority of Article 10 of Chapter 160A of the General Statutes.

9 "Section 7.7. **Acceptance of Conveyance in Satisfaction of Assessments.** The  
10 Town Tax Collector or other official or employee of the Town having charge of the  
11 collection of special assessments, shall have the right, power, and authority, by and with  
12 the approval of the Board first had and obtained, to receive and accept a fee simple  
13 conveyance to the Town of any lot or parcel of land in the Town, free and clear of other  
14 encumbrances, in full settlement and satisfaction of any street or sidewalk assessments  
15 outstanding and unpaid against the property. Such right, power, and authority shall be  
16 limited to conveyance of the whole of the lot or parcel of land against which the  
17 particular assessments involved were levied. No lot or tract of land may be divided and  
18 such right, power, and authority exercised as to a part of the property originally embraced  
19 in and covered by the assessments. In the case of such conveyance, it shall not be  
20 necessary that the street or sidewalk assessments against the property be foreclosed, but  
21 the Town, upon the receipt of any such conveyance, shall become and be the absolute fee  
22 simple owner of the property as fully to all intents and purposes as if purchased in and  
23 through foreclosure proceedings for the enforcement of such street or sidewalk  
24 assessments.

## 25 "ARTICLE VIII. WATER AND SEWER.

26 "Section 8.1. **Corner Lot Exemptions.** The Board is hereby authorized to establish,  
27 by ordinance or resolution, schedules of exemptions for assessments for water and sewer  
28 line extensions for corner lots when water or sewer lines, or both, are installed along both  
29 sides of such lots and when the cost of such installation along both sides were or are  
30 financed in whole or in part by assessments. The schedules of exemptions may be  
31 classified as to land uses (residential, commercial, industrial, institutional, or agricultural)  
32 and shall be uniform for each such classification used, except that no schedule of  
33 exemptions may provide for exemption of more than fifty percent (50%) of the frontage  
34 on any side of a corner lot, or 150 feet, whichever is greater.

35 "Section 8.2. **Alternative Method of Assessment.** In addition to, and as an  
36 alternative, to the methods provided in G.S. 160A-218 for assessing the costs of water  
37 and sewer lines and laterals, the Board, if in its opinion it would be more equitable to do  
38 so, is hereby authorized in its discretion to levy any such assessments according to either  
39 of the following methods: (1) equally against each of the lots capable of being served  
40 by the lines, or (2) on the basis of the footage of land upon a public street by an equal rate  
41 per foot of such frontage.

42 Instead of assessing the total cost of a particular project as herein provided, the Board  
43 may annually, between the first days of January and July of each year, determine the

1 average cost of installing water and sewer mains or lines and on the basis of the  
2 determination may make assessments of the average cost during the following fiscal year  
3 beginning July 1. The average cost of the installation shall include the cost of the  
4 particular size and material of lines completed during the preceding calendar year. It may  
5 also include the anticipated increase in labor and material costs based upon the average of  
6 such increases during the preceding five calendar years. The assessment of the average  
7 cost of the line shall not be made until after the particular assessment project has been  
8 completed. The purpose of this section is to: (1) distribute more equitably the cost  
9 of the installation of water and sewer lines throughout the Town; (2) permit a property  
10 owner to know in advance what the cost of installation of water and sewer lines  
11 benefiting his or her property will be; and (3) permit the most expeditious assessment of  
12 cost against property after completion of the installation of the lines. The actual cost of  
13 acquisition of rights-of-way may also be assessed as part of the cost of an individual  
14 project. If the right-of-way costs have not been determined and assessed with the  
15 assessment of the average installation costs at the time of the completion of the project,  
16 the costs may be assessed separately when they are determined.

17 **"ARTICLE IX. WATER AND SEWER LINE CHARGES.**

18 "Section 9.1. **Water and Sewer Line Charges.** The authority of the Town to impose  
19 water and sewer line charges shall continue as authorized by S.L. 1989-477.

20 **"ARTICLE X. CLAIMS AGAINST THE TOWN.**

21 "Section 10.1. **Settlement of Claims by Town Manager.** The Board may authorize  
22 the Town Manager to settle claims against the Town for: (1) personal injuries or  
23 damages to property when the amount involved does not exceed the sum of five thousand  
24 dollars (\$5,000) and does not exceed the actual loss sustained, including loss of time,  
25 medical expenses, and any other expenses actually incurred, and (2) the taking of small  
26 portions of private property that are needed for the rounding of corners at intersections of  
27 streets when the amount involved in any such settlement does not exceed five thousand  
28 dollars (\$5,000) and does not exceed the actual loss sustained. Settlement of a claim by  
29 the Town Manager pursuant to this section shall constitute a complete release of the  
30 Town from any and all damages sustained by the person involved in the settlement in any  
31 manner arising out of the incident, occasion, or taking complained of. All such  
32 settlements and all such releases shall be approved by the Town Attorney.

33 **"ARTICLE XI. EXTRATERRITORIAL JURISDICTION.**

34 "Section 11.1. **Jurisdiction Extended.** The area over which the Town exercises its  
35 extraterritorial jurisdiction may be extended pursuant to Chapter 804 of the 1986 Session  
36 Laws, any subsequent local acts, and any applicable general laws."

37 Section 2. The purpose of this act is to revise the Charter of the Town of  
38 Benson and to consolidate certain acts concerning the property, affairs, and government  
39 of the Town. It is intended to continue without interruption those provisions of prior acts  
40 that are expressly consolidated into this act so that all rights and liabilities that have  
41 accrued are preserved and may be enforced.

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

4           Section 4. The provisions of Article III of this act are intended to codify and  
5 continue, without change, the terms of the election plan ordered by the United States  
6 District Court for the Eastern District of North Carolina on November 22, 1988, in  
7 Johnson v. Town of Benson, No. 88-240.CIV-5.

8           Section 5. The following acts, having served the purposes for which they were  
9 enacted or having been consolidated into this act, are expressly repealed:

10           Chapter 623 of the 1971 Session Laws, except Section 4.

11           Chapter 71 of the 1989 Session Laws.

12           Section 6. The Mayor and Board serving on the date of ratification of this act  
13 shall serve until the expiration of their terms or until their successors are elected and  
14 qualified.

15           Section 7. This act does not affect any rights or interests that arose under any  
16 provisions repealed by this act.

17           Section 8. All existing ordinances, resolutions, and other provisions of the  
18 Town of Benson not inconsistent with the provisions of this act shall continue in effect  
19 until repealed or amended.

20           Section 9. No action or proceeding pending on the effect date of this act by or  
21 against the Town or any of its departments or agencies shall be abated or otherwise  
22 affected by this act.