

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS15055-LBx-96 (2/17)

Short Title: Cary Charter Rewrite.

(Local)

Sponsors: Senators Stevens, and Cowell.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE CHARTER OF THE TOWN OF CARY.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Cary, being Section 1 of Chapter 868 of the 1971 Session Laws, as amended by Chapter 357 of the 1973 Session Laws, Chapter 816 of the 1977 Session Laws, Chapter 51 of the 1985 Session Laws, Chapter 801 of the 1987 Session Laws, and ordinances adopted under Part 4 of Article 5 of Chapter 160A of the General Statutes reads as rewritten:

"**Section 1.** The Charter of the Town of Cary is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF CARY

"ARTICLE I. INCORPORATION AND GENERAL POWERS

"Section 1.1. Incorporation and general powers. The Town of Cary shall continue to be a body politic and corporate under the name and style of the 'Town of Cary', and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold, or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges and immunities of every name and nature.

"Section 1.2. 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 herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Cary shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers

1 which, under the Constitution of North Carolina, it would be competent for this Charter
2 specifically to enumerate.

3 "Section 1.3. Exercise of powers. All powers, functions, rights, privileges, and
4 immunities of the Town, its officers, agencies or employees, shall be carried into
5 execution as provided by this Charter, or if this Charter makes no provision, as provided
6 by ordinance or resolution of the Town Council and as provided by the general laws of
7 North Carolina pertaining to municipal corporations.

8 "Section 1.4. Form of government. The form of government of the Town of Cary
9 shall be known as the 'Council-Manager Form of Government', as set forth in the
10 General Statutes of North Carolina subject to the modifications of this Charter. Nothing
11 contained in this Charter shall be construed to prevent the form of government of the
12 Town of Cary from being changed as by law provided.

13 "ARTICLE II. CORPORATE BOUNDARIES

14 "Section 2.1. Existing corporate boundaries. ~~(a) The corporate limits of the Town~~
15 ~~shall be those existing at the time of the ratification of this Charter and as the same may~~
16 ~~be altered from time to time in accordance with law. The Town Engineer-Planning~~
17 ~~Director shall prepare a map to be designated 'Map of the Town of Cary Corporate~~
18 ~~Limits' showing the corporate limits as the same may exist as of the effective date of~~
19 ~~this Charter. The Town Engineer-shall-Planning Director may also prepare a written~~
20 ~~description of the corporate limits as shown on said map to be designated 'Description~~
21 ~~of Cary Corporate Limits'. Said map and description shall be retained permanently in~~
22 ~~the Office of the Town Clerk as the official map and a description of the corporate~~
23 ~~limits of the Town. Immediately upon alteration of the corporate limits made pursuant~~
24 ~~to law from time to time, the Town Engineer-Planning Director shall indicate such~~
25 ~~alteration by making appropriate changes and/or additions to said official map and~~
26 ~~description. Photographic or other types ~~or other of~~ copies of said official map or~~
27 ~~description certified as by law provided for the certification of ordinances shall be~~
28 ~~admitted in evidence in all courts and shall have the same force and effect as would the~~
29 ~~official map or description.~~

30 ~~(b) The Town Clerk shall require the re drawing of the official map and the~~
31 ~~rewriting of the official description as may from time to time be required. A redrawn~~
32 ~~map and a rewritten description shall supersede for all purposes the earlier maps and~~
33 ~~descriptions which are respectively replaced.~~

34 "Section 2.2. Extension of corporate boundaries. All extensions of the corporate
35 boundaries shall be governed by the General Statutes of North Carolina.

36 "ARTICLE III. MAYOR AND TOWN COUNCIL

37 "Section 3.1. Form of government. The government of the Town and the general
38 management and control of all its affairs shall be vested in a Town Council, which shall
39 be elected and shall exercise its powers in the manner hereinafter provided, except that
40 the Town Manager shall have the authority hereinafter specified.

41 "Section 3.2. Number and qualification of ~~councilmen~~ council members and mayor
42 generally.

43 (a) The town council shall consist of six (6) members, two (2) of whom shall be
44 elected at large by all the qualified voters of the town, and four (4) of whom shall be

1 elected by the qualified voters of each of four (4) single-member electoral districts,
2 respectively, as established by the town council pursuant to the law. Terms of council
3 members shall be overlapping four-year terms. In the 2001 election and quadrennially
4 thereafter, there shall be elected, for four-year terms, one (1) council member from
5 electoral district A, one (1) council member from electoral district C, and one (1)
6 council member from the town at large. In the 2003 election and quadrennially
7 thereafter, there shall be elected, for four-year terms, one (1) council member from
8 electoral district B, one (1) council member from electoral district D, and one (1)
9 council member from the town at large.

10 (b) The mayor shall be elected by all the qualified voters of the town, for a term
11 of four (4) years, in the 2003 election and quadrennially thereafter. The mayor shall
12 have the right to vote on all matters before the town council.

13 (c) The method of election of the mayor and town council shall be the
14 nonpartisan election and runoff method to be conducted as provided in G.S.163-293.

15 "Section 3.3. Legislative powers. All the legislative powers of the town shall be
16 vested in the mayor and town council. The mayor and town council shall meet at the
17 time prescribed by law following each election, and those elected as aforesaid shall take
18 the oath of office as prescribed by law to perform faithfully the duties of their respective
19 offices. The mayor shall have all rights, duties, and responsibilities of a councilman. A
20 mayor pro tempore shall be elected by the town council from among its own members
21 and shall hold office as mayor pro tempore during the pleasure of the council. The
22 organization of the ~~council~~ council shall take place notwithstanding the absence, death,
23 refusal to serve, failure to qualify, or nonelection of one or more members, but at least a
24 quorum of the members must be present. Any member entitled to make the aforesaid
25 oath, who was not present at the time fixed therefor, may make oath at any time
26 thereafter.

27 ~~"Section 3.4. Meetings. The Town Council shall fix suitable times for its regular~~
28 ~~meetings. The Mayor, the Mayor Pro Tempore of the Town Council, or any two~~
29 ~~members thereof, may at any time call a special meeting by causing a written notice,~~
30 ~~stating the time of holding such meeting and signed by a person or persons calling the~~
31 ~~same, to be delivered in hand to each member or left at his usual dwelling place at least~~
32 ~~six (6) hours before the time of such meeting. Meetings of the Town Council may also~~
33 ~~be held at any time when all members of the Council are present and consent thereto.~~

34 "Section 3.5. General Procedure. A majority of the members of the Town Council
35 shall constitute a quorum. Its meetings shall be public, and the Mayor, who shall be the
36 official head of the Town, shall, if present, preside and shall have the same power as the
37 other members of the Council to vote upon all measures coming before it, but shall have
38 no power of veto. In the absence of the Mayor, the Mayor Pro Tempore of the Council
39 shall preside, and in the absence of both, a Chairman Pro Tempore shall be chosen. The
40 Town Clerk shall be ex officio clerk of the Town Council, and shall keep records of its
41 proceedings; but in case of ~~his~~ the clerk's temporary absence, or in case of a vacancy in
42 the office, the Town Council may elect by ballot a temporary clerk, who shall be sworn
43 to the faithful discharge of his duties and may act as Clerk of the Town Council until a
44 Town Clerk is chosen and qualified. On request of one member, the vote shall be yeas,

1 and nays, and shall be entered upon the records. ~~Four (4) affirmative votes at least shall~~
2 ~~be necessary for the passage of any order, ordinance, resolution, or vote.~~

3 "Section 3.6. Vacancies. Vacancies in the Town Council shall be filled by the
4 Council for the remainder of the unexpired terms. In case of a vacancy in the office of
5 Mayor, the remaining members of the Council shall choose from their own number his
6 successor for the unexpired term.

7 "Section 3.7. Compensation. ~~(a) The Town Council shall fix or approve the salaries~~
8 ~~and allowances of all Town officers and employees.~~

9 ~~(b)~~ The Council may fix its own compensation and the compensation of the
10 Mayor and any other elected officers of the Town, in such sums as may be just and
11 reasonable. Adjustments in the compensation of the Mayor and any other elected
12 officers may be made effective at such time as the Council may direct, but the salary of
13 elected officers shall not be reduced during the then current term of office unless he
14 shall agree thereto. Elected officers shall be entitled to reimbursement for actual
15 expenses incurred in the course of performing their official duties at rates not in excess
16 of those allowed to other Town officers and employees.

17 "Section 3.8. ~~Town Manager. The Town Council shall appoint a Town Manager,~~
18 ~~who shall be the administrative head of the Town government, and shall be responsible~~
19 ~~for the administration of all departments. He shall be appointed with regard to merit~~
20 ~~only, and he need not be a resident of the Town when appointed. He shall hold office at~~
21 ~~the pleasure of the Town Council, and shall receive such compensation as it shall fix by~~
22 ~~ordinance. Appointments by council. The town council shall appoint a town manager, a~~
23 ~~town attorney, a town clerk, and a town treasurer, and may authorize the appointment of~~
24 ~~such associates or assistants to such officers as the council may deem necessary, all who~~
25 ~~shall hold office at the pleasure of the council and receive such compensation as the~~
26 ~~council may provide.~~

27 "Section 3.9. Powers of Town Manager.

28 (a) The town council shall appoint a town manager, who shall be the
29 administrative head of the town government, and shall be responsible for the
30 administration of all departments. The manager shall be appointed with regard to
31 executive and administrative abilities only, and need not be a resident of the town when
32 appointed. The manager shall hold office at the pleasure of the town council, and shall
33 receive such compensation as it shall fix by ordinance.

34 (b) The Town Manager shall:

35 ~~(a)-(1)~~ Be the administrative head of the Town government;

36 ~~(b)-(2)~~ See that within the Town the laws of the State and the ordinances,
37 resolutions, and regulations of the Council are faithfully executed;

38 ~~(c)-(3)~~ Attend all meetings of the Council, and recommend for adoption such
39 measures as he shall deem expedient;

40 ~~(d)-(4)~~ Make reports to the Council from time to time upon the affairs of the
41 Town and keep the Council fully advised of the Town's financial
42 condition and its future financial needs.

43 ~~(e)-(5)~~ Appoint and remove all heads of departments, superintendents, and
44 other employees of the Town, departments, except those employees

1 ~~hereinafter enumerated, enumerated in Section 3.8 of this Charter, who~~
2 ~~shall be appointed by and at the pleasure of the Town Council;~~
3 ~~provided, the Town Manager shall report every such appointment and~~
4 ~~removal to the Council at the next meeting thereof following any such~~
5 ~~appointment or removal. Council.~~

6 ~~(f) The Town Council shall appoint a Town Attorney, a Town Clerk, a Town~~
7 ~~Treasurer, and a Town Accountant, and may authorize the appointment of such~~
8 ~~associates or assistants to such officers as the Council may deem necessary, all who~~
9 ~~shall hold office at the pleasure of the Council and receive such compensation as the~~
10 ~~Council may provide.~~

11 ~~"Section 3.10. Town Attorney. The Town Attorney shall be the legal advisor to the~~
12 ~~Town and perform such duties as may be specified by the Council, or specified by law.~~
13 ~~The attorney shall be appointed with regard to merit only, and need not be a resident of~~
14 ~~the town when appointed. The attorney shall hold office at the pleasure of the town~~
15 ~~council, and shall receive such compensation as it shall fix by ordinance.~~

16 ~~"Section 3.11. Town Clerk. The Town Clerk shall be the secretary to the Town~~
17 ~~Council-Council, keep all records concerning Council actions and shall exercise those~~
18 ~~powers and duties conferred by the law and shall perform such duties as may be~~
19 ~~specified by the Council. The clerk shall be appointed with regard to merit only, and~~
20 ~~need not be a resident of the town when appointed. The clerk shall hold office at the~~
21 ~~pleasure of the town council, and shall receive such compensation as it shall fix by~~
22 ~~ordinance.~~

23 ~~"Section 3.12. Town Treasurer. The town treasurer shall be appointed with regard to~~
24 ~~merit only, and need not be a resident of the town when appointed. The treasurer shall~~
25 ~~hold office at the pleasure of the town council, and shall receive such compensation as it~~
26 ~~shall fix by ordinance. The Town Treasurer shall be custodian of all funds of the Town.~~
27 ~~The town treasurer shall be custodian of all funds of the town.~~

28 ~~The treasurer shall execute a bond payable to the town, and at its expense, in such~~
29 ~~sum and with such sureties as shall be prescribed and approved by the council~~
30 ~~conditioned upon the faithful performance of the duties of the office and proper~~
31 ~~accounting of all funds that may come into this person's possession by virtue of the~~
32 ~~office. Duties of the treasurer include:~~

- 33 ~~(1) Manage the cash flows of the town.~~
- 34 ~~(2) Be responsible for the investment of excess cash under the direction of~~
35 ~~the finance director.~~
- 36 ~~(3) Keep appropriate records for cash flow and investments.~~
- 37 ~~(4) Make reports as requested by the town manager, the finance director,~~
38 ~~and the council.~~

39 ~~"Section 3.13. Town Accountant. The Town Accountant shall have charge of the~~
40 ~~financial affairs of the Town as specified or requested by the Town Council, Town~~
41 ~~Manager, or specified or required by law.~~

42 ~~"Section 3.14. Town Engineer. The Town Engineer shall be the engineering advisor~~
43 ~~to the Town and perform such duties as may be specified by the Council or specified by~~
44 ~~law.~~

1 "Section 3.15. Combination of offices. The Town Council may combine the office of
2 Town Treasurer with the ~~offices of Town Clerk or Town Accountant,~~ office of Town
3 Clerk in their its sole discretion.

4 "Sec. 3.16. Terms of commissions, committees and boards. The town council is
5 authorized to fix the terms of members of all commissions, committees and boards of
6 the town regardless of the terms established by General Statute or other law for
7 particular commissions, committees or boards; to appoint the chairman or other
8 presiding officer of each commission, committee or board of the town, regardless of the
9 provisions of any General Statute or other law; and to limit the number of terms which
10 any person may serve on any commission, committee or board of the town.

11 "ARTICLE IV. ELECTION PROCEDURE

12 "Section 4.1. Municipal Elections. All general elections and special elections in the
13 Town of Cary shall be called by resolution of the Wake County Board of Elections upon
14 resolution of the Town of Cary requesting said Board to call such election. All elections
15 shall be held, conducted and supervised by the Wake County Board of Elections under
16 the laws governing the conduct of general elections and special elections in the State of
17 North Carolina, except as otherwise may be provided by this act.

18 "Section 4.2. General election candidates. Candidates for any elective office in the
19 Town of Cary shall file with the Wake County Board of Elections not later than twelve
20 o'clock Noon on the second Tuesday preceding the date prescribed for the general
21 election by this act a statement of such candidacy in substantially the following form:

22 —STATE OF NORTH CAROLINA

23 —COUNTY OF WAKE

24 —I, _____, being first duly sworn say that I reside at _____ Street,
25 Cary, Wake County, North Carolina; that I am a candidate for the office of _____,
26 which office is to be filled at the general election of the Town of Cary to be held on the
27 in _____ in the year _____, and I hereby request that my name be printed upon the
28 official ballot as a candidate for said office in said general election.

29 Subscribed and sworn to (or affirmed) before me this _____ day of _____ in the year

30 Each person so filing as a candidate for elective office in the Town of Cary shall pay
31 at the same time to the Wake County Board of Elections to be turned over to the Town
32 of Cary a filing fee in an amount equal to one per cent of the annual salary of the office
33 sought or five dollars (\$5.00), whichever shall be greater. Immediately upon the
34 expiration of the time for filing statements of candidacy, the Wake County Board of
35 Elections shall cause to be published once in a daily newspaper of general circulation in
36 the Town of Cary and further shall cause to be posted at the Town Hall in the Town of
37 Cary, in proper form, the names of each of the persons so filing statements of candidacy
38 and the office for which each filed as they are to appear upon the general election
39 ballots; and the said Wake County Board of Elections thereupon shall cause the election
40 ballots to be printed as hereinafter set forth.

41 "Section 4.3. Election. On Tuesday, after the first Monday in November, 1973, and
42 every four years thereafter there shall be elected two councilmen and on Tuesday after
43 the first Monday in November, 1975, and every four years thereafter, there shall be
44 elected three councilmen. Councilmen so elected shall serve for a term of four years

1 each and until their successors are elected and qualified. Notice of any election shall be
2 published by the Wake County Board of Elections pursuant to resolution calling said
3 election.

4 ~~"Section 4.4. Election ballots. The Wake County Board of Elections shall cause~~
5 ~~ballots to be printed for the municipal election. The ballots shall be printed upon plain~~
6 ~~substantial white paper and shall be headed CANDIDATES FOR MUNICIPAL~~
7 ~~OFFICES OF THE TOWN OF CARY AT THE GENERAL MUNICIPAL ELECTION.~~
8 ~~There shall appear upon said ballots the name of each candidate filing a statement of~~
9 ~~candidacy for the Council of the Town of Cary and paying the fee as set forth in Section~~
10 ~~4.2 hereof, with a square at the left of each name, and immediately following said~~
11 ~~names there shall appear the words 'Vote For' followed by the designation of the~~
12 ~~number of elective offices on the Council of the Town of Cary to be filled at said~~
13 ~~general election. Following this, there shall appear the authenticating facsimile signature~~
14 ~~of the Chairman of the Wake County Board of Elections and his title. Save for the~~
15 ~~foregoing items and such instructions as the Wake County Board of Elections may~~
16 ~~direct to be placed on the ballots, no other writing shall appear on such ballots.~~

17 ~~"Section 4.5. Voting machines. Voting machines may be used in any election upon~~
18 ~~request of the Town of Cary and by consent of the Wake County Board of Elections.~~
19 ~~Elections using machines shall be conducted as by law provided and according to such~~
20 ~~regulations as the Wake County Board of Elections shall prescribe.~~

21 ~~"Section 4.6. Canvass. At the time and place set forth by law, the Wake County~~
22 ~~Board of Elections and the registrars of the several precincts within the Town of Cary~~
23 ~~shall meet and shall constitute the canvassing board for said election. Said canvassing~~
24 ~~board shall proceed to receive and tabulate the number of votes cast in each precinct for~~
25 ~~the several candidates as shown by the returns of the registrars and judges, and that~~
26 ~~number of candidates for offices to be filled in the particular election and receiving the~~
27 ~~highest number of votes for offices to be filled in the particular election and receiving~~
28 ~~the highest number of votes for the office of councilman of the Town of Cary shall be~~
29 ~~declared elected councilman of the Town of Cary. The canvassing board shall certify~~
30 ~~under their hands and seals the results of said election, stating the name and number of~~
31 ~~votes received by each candidate. Two copies of the results of the election shall be made~~
32 ~~under the hands of the members of said canvassing board, one of which shall be filed~~
33 ~~with the Clerk of the Town of Cary who, immediately upon receipt thereof, shall~~
34 ~~prepare and post a true copy of the results of the election at the Cary Town Hall. In the~~
35 ~~event of a tie vote among two or more candidates receiving a number of votes which,~~
36 ~~but for the tie vote, would have entitled any one or more of such candidates to be~~
37 ~~declared elected, the canvassing board shall determine by lot which shall be elected.~~

38 ~~"Section 4.7. Special election. Every election held pursuant to resolution of the~~
39 ~~Council of the Town of Cary shall be conducted in like manner as provided in this act~~
40 ~~and the General Election laws for the State of North Carolina so far as the particular~~
41 ~~case can be governed by general rules, and shall, to all intents and purposes, be as legal~~
42 ~~and valid, and shall subject the officers holding the same and the persons elected at such~~
43 ~~special election to the same penalties and liabilities as if the same had been held at the~~

1 time and according to the rules and regulations prescribed for the regular biennial Town
2 elections.

3 ~~The Council of the Town of Cary shall have power, by appropriate resolution, to~~
4 ~~require the Wake County Board of Elections to call at any time any special election for~~
5 ~~the purpose of voting upon any municipal issue, including the question of issuing bonds~~
6 ~~for any purpose or purposes provided by law.~~

7 ~~"Section 4.8. Absentee voting. Absentee voting will not be permitted in any Town of~~
8 ~~Cary municipal election.~~

9 ~~"Section 4.9. Compensation of election officials. Notwithstanding the provisions of~~
10 ~~any other law, special or general, the registrars, judges and clerk of election shall~~
11 ~~receive for their services such compensation as shall be fixed by the Wake County~~
12 ~~Board of Elections; provided, the pay of such election officials in a municipal election~~
13 ~~for the Town of Cary shall not exceed the amount paid to such officials in the holding of~~
14 ~~County and State elections.~~

15 ~~"Section 4.10. Costs of elections. The Town of Cary shall pay all expenses incurred~~
16 ~~by the Wake County Board of Elections by reason of any election conducted for the~~
17 ~~Town of Cary, including the following items of expense:~~

18 ~~(a) The actual costs of publication of any election notice or notices.~~

19 ~~(b) The actual costs of printing, including ballots, forms required for the filing of~~
20 ~~candidates, and any other printed matter.~~

21 ~~(c) The compensation paid to the registrars, judges and clerks of election for the~~
22 ~~conduct of the election; provided, when any Town of Cary municipal election shall~~
23 ~~coincide with any other County, State or National election, the Town of Cary shall pay~~
24 ~~only the pro rata part of such compensation attributable to such municipal election as~~
25 ~~determined by the Wake County Board of Elections, not exceeding one half of the total~~
26 ~~compensation paid to the registrars, judges and clerks of election for the conduct of the~~
27 ~~election in precincts within the Town of Cary.~~

28 ~~(d) The compensation paid to the members of the Board of Canvassers for~~
29 ~~canvassing the votes of the municipal election; provided, when the canvass of votes for~~
30 ~~any other City, Town, County, State or National election or elections shall coincide with~~
31 ~~the canvass of votes of a municipal election in the Town of Cary, the Town of Cary~~
32 ~~shall pay only the pro rata part of such compensation attributable to the canvass of votes~~
33 ~~for the municipal election of the Town of Cary as determined by the Wake County~~
34 ~~Board of Elections, not exceeding one-half of the total compensation paid to the Board~~
35 ~~of Canvassers.~~

36 ~~(e) The actual costs (or, in the case of costs attributable to elections for the Town~~
37 ~~of Cary and one or more other Town, City State, County or National elections, the~~
38 ~~pro rata cost as determined by the Wake County Board of Elections), of any other item~~
39 ~~of expense lawfully incurred by the Wake County Board of Elections in conducting the~~
40 ~~municipal election for the Town of Cary.~~

41 ~~The Wake County Board of Elections, within thirty days after any election~~
42 ~~conducted for the Town of Cary, shall render a bill computed as herein set forth to the~~
43 ~~Town of Cary for all items of expense incurred by said Board in the conduct of a~~

1 ~~municipal election for the Town of Cary, and the Town of Cary shall pay such bill~~
2 ~~within thirty days after receipt thereof.~~

3 ~~"Section 4.11. Registrars and judges—appointment. Registrars, judges and clerks of~~
4 ~~elections shall be appointed by the Wake County Board of Elections as required and~~
5 ~~shall be selected on a non-partisan basis.~~

6 ~~"ARTICLE V. POLICE~~

7 ~~"Section 5.1. Jurisdiction on town property. The jurisdiction of the police force is~~
8 ~~hereby extended to include all Town owned property and facilities, whether located~~
9 ~~within or without the corporate limits and all members of the police force shall have~~
10 ~~upon and within such property and facilities all rights, power and authority as they have~~
11 ~~within the corporate limits.~~

12 ~~"Section 5.2. Effect of ordinances on town property. All applicable ordinances of the~~
13 ~~Town shall have full force and effect upon and within all property and facilities owned~~
14 ~~by the Town, whether located within or outside the corporate limits.~~

15 ~~"ARTICLE VI. STREET AND SIDEWALK IMPROVEMENTS~~

16 ~~"Section 6.1. Street improvements; assessment of cost. In addition to any authority~~
17 ~~which is now or may hereafter be granted by general law to the Town for making street~~
18 ~~improvements, the Town Council is hereby authorized to make street improvements and~~
19 ~~to assess the cost thereof against abutting property owners in accordance with the~~
20 ~~provisions of this Article.~~

21 ~~"Section 6.2. When petition unnecessary. The Town Council may order street~~
22 ~~improvements and assess the cost thereof, exclusive of the cost incurred at street~~
23 ~~intersections, against the abutting property owners at an equal rate per front foot,~~
24 ~~without the necessity of a petition, upon the finding by the Council as a fact:~~

25 ~~(a) That such street or part thereof is unsafe for vehicular traffic and it is in the~~
26 ~~public interest to make such improvement, or~~

27 ~~(b) That it is in the public interest to connect two streets, or portions of a street~~
28 ~~already improved, or~~

29 ~~(c) That it is in the public interest to widen a street, or part thereof, which is~~
30 ~~already improved; provided, that assessments for widening any street or portions of~~
31 ~~street without petition shall be limited to the cost of widening and otherwise improving~~
32 ~~such street in accordance with the street classification and improvement standards~~
33 ~~established by the Town's thoroughfare or major street plan for the particular street or~~
34 ~~part thereof to be widened and improved under the authority granted by this Article.~~

35 ~~"Section 6.3. Street improvement defined. For the purpose of this Article the term~~
36 ~~'Street Improvement' shall include grading, regrading, surfacing, resurfacing, widening,~~
37 ~~paving, repaving, the acquisition of right-of-way, and the construction or reconstruction~~
38 ~~of curb, gutters and street drainage facilities.~~

39 ~~"Section 6.4. Sidewalks; assessment of cost. In addition to any authority which is now~~
40 ~~or may hereafter be granted by the General Statutes to the Town for making sidewalk~~
41 ~~improvements, the Town Council is hereby authorized to order to be made or to make~~
42 ~~sidewalk improvements or repairs without petition according to standards and~~
43 ~~specifications of the Town, and to assess the total cost thereof against abutting property~~
44 ~~owners.~~

1 If a sidewalk is constructed on only one side of a street, the cost thereof may be
2 assessed against a property abutting on both sides of the street, unless there already
3 exists a sidewalk, on the other side of the street, the total cost of which has been
4 assessed against the abutting property.

5 "Section 6.5. Assessment procedure. In ordering street and sidewalk improvements
6 without a petition and assessing the cost thereof under authority of this Article, the
7 Town Council shall comply with the procedure provided in the General Statutes, except
8 those provisions relating to the petition of property owners and the sufficiency thereof.

9 "Section 6.6. Effect of assessment. The effect of the act of levying assessments
10 under the authority of this Article shall for all purposes be the same as if assessed where
11 levied under authority of the General Statutes of North Carolina.

12 "ARTICLE VII. FINANCE AND TAXATION

13 "Section 7.1. Custody of town money. All monies received by the Town for and in
14 connection with the business of the Town government shall be paid promptly into the
15 Town depository or depositories. Such institution shall be designated by the Town
16 Council in accordance with such regulations and subject to such requirements as to
17 surety for deposits and interest thereon as shall be established by the General Statutes of
18 North Carolina. All interest on monies belonging to the Town shall accrue to the benefit
19 of the Town. All monies belonging to the Town shall be disbursed only in accordance
20 with the provisions of the Municipal Fiscal Control Act.

21 "Section 7.2. Independent audit. As soon as practicable after the close of each fiscal
22 year, an independent audit shall be made of all books and accounts of the Town
23 government by a certified public accountant or a qualified public accountant registered
24 pursuant to the General Statutes of North Carolina, who shall have no personal interest
25 directly or indirectly in the affairs of the Town or any of its officers. The Town Council
26 shall select the public accountant and the results of such audit shall be made available
27 for inspection by any interested citizen of the Town, and may be published if so ordered
28 by the Town Council.

29 ~~"Section 7.3. Appropriations for industrial development. The Town Council is~~
30 ~~hereby authorized to appropriate from any available non tax revenues an amount not to~~
31 ~~exceed the sum of five thousand dollars (\$5,000) annually to be used for advertising and~~
32 ~~publicizing the advantages and facilities of the Town in such manner as in the judgment~~
33 ~~and discretion of the Town Council will promote and enhance the industrial and~~
34 ~~economic welfare of the citizens and taxpayers of the Town. Such appropriations are~~
35 ~~hereby declared to be for a public purpose. The money so appropriated may be~~
36 ~~expended either directly by the Town Council or through the facilities of such agency as~~
37 ~~the Council may elect, and shall be used in such manner as will, in the opinion of the~~
38 ~~Council, best serve the purposes herein set forth.~~

39 "Section 7.4. (a) The Town of Cary shall have the right, power and authority to
40 impose and collect a regulatory or development fee defined as a road project fee on all
41 new construction within the Town limits and extraterritorial jurisdiction.

42 (b) It is the purpose and intent of this section to provide the Town with the legal
43 mechanism granting it the right, power and authority to impose and collect fees to
44 finance additional improvements within the Town limits and extraterritorial jurisdiction.

1 These additional road improvements being caused by rapid and continued growth within
2 the Cary area. This section provides approval to the Town to actually develop and
3 implement such a fee system, but does not in any way, describe or detail the actual fee
4 structure and rate classification. An extensive study will subsequently be performed to
5 establish the basis and framework for the fee system should the system be deemed
6 necessary in order to maintain the high level of service delivery presently available to
7 Cary residents.

8 "ARTICLE VIII. WATER AND SEWER IMPROVEMENTS

9 "Section 8.1. Laterals included in cost. In ordering water or sewer line extensions, or
10 both, the assessment of the cost thereof under the authority given by the General
11 Statutes, the Town Council is hereby authorized to include in such extensions water and
12 sewer line laterals, and to include the cost of such laterals in the total cost to be assessed
13 upon abutting properties.

14 "Section 8.2. Classification and exemption. Where water or sewer lines are
15 constructed across or through lots or tracts of land or when water or sewer lines, or both,
16 are installed along both sides of corner lots were or are financed in whole or in part by
17 assessment, the Council may by uniform rule classify such lines for assessment as in its
18 judgment will represent the benefits derived. The schedules of exemptions may be
19 classified as to land uses (residential, business, commercial, industrial, office and
20 institutional, agricultural, or other classifications) and shall be uniform for each such
21 classification used; provided, however, that no schedule of exemptions may provide for
22 exemption of more than seventy-five percent (75%) of the frontage of any side of a
23 corner lot, or 150 feet, whichever is greater.

24 "Section 8.3. Alternative method of assessing. In addition to, and as alternatives, to
25 the method provided in the General Statutes for assessing the cost of water and sewer
26 lines and laterals, the Town Council, if in its opinion it would be more equitable to do
27 so, is hereby authorized in its discretion to levy any such assessments according to
28 either of the following methods: (1) equally against each of the lots capable of being
29 served by such line or lines, or (2) on the basis of the footage of land upon a public
30 street by an equal rate per foot of such frontage.

31 In lieu of assessing the total cost of a particular project as herein provided, the Town
32 Council may annually, between the first days of January and July of each year,
33 determine the average cost of installing water and sewer mains or lines, and on the basis
34 of such determination may make assessments on such average cost during the following
35 fiscal year beginning July 1. The average cost of such installation shall include the cost
36 of the particular size and material of lines completed during the preceding calendar year.
37 It may also include the anticipated increase in labor and materials cost based upon the
38 average of such increases during the preceding five calendar years. The assessment of
39 the average cost of such lines shall not be made until after the particular assessment
40 project has been completed. The purpose of this Section is to distribute more equitably
41 the cost of the installation of water and sewer lines throughout the Town; to permit a
42 property owner to know in advance what the cost of installation of water and sewer
43 lines benefiting his property will be; and to permit the most expeditious assessment of
44 cost against the property after completion of installation of such lines. The actual cost of

1 acquisition of rights-of-way may also be assessed as part of the cost of an individual
2 project. If the right-of-way costs have not been determined and assessed with the
3 assessment of the average installation cost at the time of the completion of the project,
4 such costs may be assessed separately when they are determined.

5 "Section 8.4. Payment of assessments. Any special assessment of the Town for any
6 purpose amounting to less than one hundred dollars (\$100.00) shall be paid in cash not
7 later than the next due date of Town taxes rather than in annual installments, and shall
8 bear interest as taxes.

9 "Section 8.5. ~~Acreage charges.~~ Water and sewer development fees. In addition to
10 water and sewer service charges and connection charges, the Town Council may
11 establish and collect ~~acreage charges~~ water and sewer development fees for the privilege
12 of connecting to the Town water and sewerage systems, both within and outside the
13 corporate limits, to aid in the financing of new water and sewer mains and laterals and
14 sewer outfalls and the replacement or enlargement of existing mains, laterals and
15 outfalls. Such charges shall apply uniformly to all properties to which water or sewer
16 service is extended subsequent to the establishment of such charges; provided, however,
17 that the Council may establish higher ~~acreage charges~~ water and sewer development
18 fees for property developed or to be developed for business, commercial, industrial, or
19 office and institutional uses than those established for residential and other uses, and
20 may base ~~acreage charges~~ water and sewer development fees for residential property
21 upon the number of dwelling units per acre of land.

22 "ARTICLE IX. REGULATORY POWERS

23 "Section 9.1. Zoning and subdivision regulations. Any subdivision control ordinance
24 enacted by the Town Council pursuant to general law may also provide for the orderly
25 development of subdivisions by requiring the construction of community service
26 facilities, including water lines; sewer lines; street paving, curbing and guttering; and
27 street and storm drainage facilities in accordance with Town standards and
28 specifications, and to assure compliance with such requirements, the ordinance may
29 require the posting of bond or such other method as will offer guarantee of compliance.

30 In addition to the authority conferred upon it by general or local law, the Town of
31 Cary is hereby empowered to create, through the legislative process, general use zoning
32 districts, in which a variety of uses are permitted; conditional use zoning districts, in
33 which limited uses are permitted only upon approval by the Town; overlay zoning
34 districts, which are applied coincidental with the general or conditional use district; and
35 transitional zoning regulations.

36 The overlay zoning districts may impose additional regulations on some property
37 within the underlying general or conditional use district and not on all properties within
38 those districts.

39 A person petitioning for rezoning of a tract of land where conditional use districts or
40 overlay districts are authorized by ordinance, may elect to request a general use district,
41 a conditional use district, or an overlay district for the tract. If the petitioner elects to
42 petition for the general use or overlay district zoning, and if the petition is approved, the
43 rezoned property may be used for any of the uses permitted in the applicable general use
44 or overlay district. If the petitioner elects to petition for conditional use district zoning,

1 the petition must specify the actual use or uses, and all other development regulations
2 authorized by State law, which are intended for the property specified in the petition.
3 The intended use or uses and development regulations must be permitted in the
4 corresponding general use district. If the petition is for conditional use district zoning,
5 the Town Council is to approve or disapprove the petition on the basis of the specific
6 use or uses and development regulations requested. If the petition is approved, the Town
7 Council shall issue a conditional use permit authorizing the requested use with such
8 reasonable conditions as the Town Council determines to be desirable in promoting
9 public health, safety and general welfare.

10 The conditions contained in a conditional use permit issued by the Town Council
11 may include: location of the proposed use on the property; the number of dwelling units;
12 the location and extent of support facilities such as parking lots, driveways, and access
13 streets; location and extent of buffer areas and other special purpose areas; the timing of
14 development; and such other matters as the Town Council may find appropriate or the
15 petitioner may propose, including architectural review or controls.

16 It is the further intent of this section to permit the creation of districts for specific
17 uses and the imposition of reasonable conditions in order to secure the public health,
18 safety and welfare, and ensure that substantial justice be done.

19 "Section 9.2. Regulatory codes. The Town Council is hereby authorized to make
20 effective and to enforce within the territory under its extraterritorial zoning jurisdiction
21 and lying outside the corporate limits and within one mile thereof, all ordinances and
22 codes of the Town regulating the construction and repair of buildings, including
23 building codes, plumbing codes, electrical codes, heating and air conditioning codes,
24 fire prevention codes, minimum housing codes adopted pursuant to the General
25 Statutes, and ordinances relating to unsafe buildings adopted pursuant to the provisions
26 of the General Statutes. In addition, the Town Council is hereby authorized to enforce in
27 such area the North Carolina State Building Code, ~~the North Carolina State Plumbing~~
28 ~~Code, and the North Carolina Uniform Residential Building Code, Codes, including~~
29 Accessibility, Plumbing, Mechanical, Electrical, Fire Prevention, Fuel Gas, Energy,
30 Existing Buildings, and Residential, all as published by the North Carolina Building
31 Code Council. Such enforcement power shall include the power to require that prior to
32 the beginning of any construction, reconstruction, or alteration of any building or
33 structure or any part or system thereof within such area, the appropriate permit or
34 permits be obtained from the Town; provided, the Town Council may by ordinance
35 require that the contractor or other person charged with such construction,
36 reconstruction, or alteration secure such permit or permits, rather than requiring the
37 owner of the property to do so.

38 "Sec. 9.3. Underground utilities. In addition to the powers now or hereafter granted
39 to municipalities by law, the town council by ordinance may require that all utility or
40 other pipes, wiring, conduits, cables, and fixtures installed after the adoption of such
41 ordinance within the planning and zoning jurisdiction of the town be installed
42 underground, whether or not the same are installed in public rights-of-way.

43 "ARTICLE X. CLAIMS AGAINST THE TOWN

1 "Section 10.1. Settlement of claims by Town Manager. The Town Manager may,
2 ~~with~~ without the approval of the Town Council, settle claims against the Town for ~~(1)~~
3 personal injuries or damages to property when the amount involved does not exceed the
4 sum of ~~one hundred dollars (\$100.00)~~ two thousand five hundred dollars (\$2,500) and
5 does not exceed the actual loss sustained, including loss of time, medical expenses, and
6 any other expense actually ~~incurred~~ and ~~(2) the taking of small portions of private~~
7 ~~property which are needed for the rounding of corners at intersections of streets, when~~
8 ~~the amount involved in any such settlement does not exceed five hundred dollars~~
9 ~~(\$500.00) and does not exceed the actual loss sustained.~~ incurred. Settlement of a claim
10 by the Town Manager pursuant to this Section shall constitute a complete release of the
11 Town from any and all damages sustained by the person involved in such settlement in
12 any manner arising out of the ~~accident, occasion, or taking~~ accident or occasion
13 ~~complained of. All such settlements, and all such releases, shall be approved in advance~~
14 ~~by the Town Attorney."~~

15 **SECTION 2.** This act is effective when it becomes law.