

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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SENATE BILL 156*

Short Title: Mt. Gilead Charter Revision & Consolidation. (Local)

Sponsors: Senator Bingham (Primary Sponsor).

Referred to: Rules and Operations of the Senate.

March 4, 2015

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF MOUNT GILEAD.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Mount Gilead is revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF MOUNT GILEAD

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES

"Section 1.1. Incorporation. The Town of Mount Gilead, North Carolina in Montgomery County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the "Town of Mount Gilead," 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 Mount Gilead 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 Limits. The corporate limits 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 map of the Town, showing the current municipal boundaries, shall be maintained permanently in the Office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the Office of the Secretary of State, the Montgomery County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY

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

"Section 2.2. Town Board of Commissioners; Composition; Terms of Office. The Board of Commissioners shall be composed of four members, to be elected by all the qualified voters of the Town, for staggered terms of four years, or until their successors are elected and qualified.

"Section 2.3. Mayor; Term of Office; Duties. The Mayor shall be elected by all the qualified voters of the Town for a term of two years or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government, shall preside at meetings of the Board, shall have the right to vote only when there is an equal division on any question or matter before the Board, and shall exercise the powers and duties conferred by law or as directed by the Board.



1 "Section 2.4. Mayor Pro Tempore. The Board shall elect one of its members as Mayor Pro
2 Tempore to perform the duties of the Mayor during his or her absence or disability, in
3 accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the
4 pleasure of the Board.

5 "Section 2.5. Meetings. In accordance with general law, the Board shall establish a suitable
6 time and place for its regular meetings. Special and emergency meetings may be held as
7 provided by general law.

8 "Section 2.6. Quorum; Voting. Official actions of the Board and all votes shall be taken in
9 accordance with the applicable provisions of general law, particularly G.S. 160A-75. The
10 quorum provisions of G.S. 160A-74 shall apply.

11 "Section 2.7. Compensation; Qualifications for Office; Vacancies. The compensation and
12 qualifications of the Mayor and Commissioners shall be in accordance with general law.
13 Vacancies that occur in any elective office of the Town shall be filled by majority vote of the
14 remaining members of the Board, and shall be filled for the remainder of the unexpired term,
15 despite the contrary provisions of G.S. 160A-63.

16 "ARTICLE III. ELECTIONS

17 "Section 3.1. Regular Municipal Elections. Regular municipal elections shall be held in
18 each odd-numbered year in accordance with the uniform municipal election laws of North
19 Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using
20 the nonpartisan plurality method as provided in G.S. 163-292.

21 "Section 3.2. Election of Mayor. A Mayor shall be elected in the regular municipal election
22 in 2015 and every two years thereafter.

23 "Section 3.3. Election of Commissioners. In the regular municipal election in 2015, and
24 quadrennially thereafter, two Commissioners shall be elected for four-year terms in those
25 positions whose terms are then expiring. In the regular municipal election in 2017, and
26 quadrennially thereafter, two Commissioners shall be elected for four-year terms in those
27 positions whose terms are then expiring.

28 "Section 3.4. Special Elections and Referenda. Special elections and referenda may be held
29 only as provided by general law or applicable local acts of the General Assembly. Recall
30 elections may be held as provided in Article IV of this Charter.

31 "ARTICLE IV. RECALL OF ELECTED OFFICIALS

32 "Section 4.1. Power of Recall. The qualified voters of the Town shall have the power to
33 remove from office any member of the Town's governing body as provided herein. An officer
34 is removed upon the filing of a sufficient recall petition and the affirmative vote of a majority
35 of those voting on the question of removal at a recall election.

36 "Section 4.2. Petition. Voters seeking the recall of any member of the Town's governing
37 body shall proceed by way of a recall petition addressed to the Board, identifying the official
38 concerned, requesting his or her removal from office, and stating in general the grounds for
39 which removal is sought. Any recall petition must be filed with the Town Clerk and must be
40 signed by qualified voters of the Town equal in number to at least twenty-five percent (25%) of
41 the number of qualified voters who voted at the last preceding municipal election.

42 "Section 4.3. Certification of Sufficiency. The Town Clerk shall forward the petition to the
43 board of elections that conducts elections for the Town. The board of elections shall verify the
44 petition signatures. If a sufficient recall petition is submitted, the board of elections shall certify
45 its sufficiency to the governing body.

46 "Section 4.4. Election. After receiving certification of a sufficient petition, the governing
47 body shall adopt a resolution calling for a recall election to be held not less than 60 nor more
48 than 100 days after the date of certification of the petition. The election may be held by itself or
49 at the same time as any other general or special election within the period established in this
50 section, and shall be held as otherwise provided in G.S. 163-287. The board of elections shall
51 conduct the recall election and the registered voters of the Town shall be eligible to vote in the

1 recall election. The proposition submitted to the voters shall be substantially in the following
2 form:

3 "FOR the recall of [name of officer]
4 AGAINST the recall of [name of officer]"

5 "Section 4.5. Results. If less than a majority of the votes cast on the question are for the
6 officer's recall, the officer continues in office. If a majority of the votes cast on the question are
7 for the officer's recall, the officer is removed on the date the board of elections certifies the
8 results of the election. A vacancy created by removal of the Mayor or a member of the Board of
9 Commissioners shall be filled in accordance with the provisions of G.S. 160A-63, provided that
10 any officer so appointed shall fill the vacancy for the remainder of the unexpired term.

11 "Section 4.6. Limitation on Petitions. No petition to recall an officer may be filed within six
12 months after the officer's election to the governing body nor within six months before the
13 expiration of the officer's term. No more than one election may be held to recall an officer
14 within a single term of office of that officer.

15 "ARTICLE V. ORGANIZATION AND ADMINISTRATION

16 "Section 5.1. Form of Government. The Town shall operate under the council-manager
17 form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General
18 Statutes.

19 "Section 5.2. Town Manager; Appointment; Powers and Duties. The Board shall appoint a
20 Town Manager who shall be responsible for the administration of all departments of the Town
21 government. The Town Manager shall have all the powers and duties conferred by general law,
22 except as expressly limited by the provisions of this Charter, and the additional powers and
23 duties conferred by the Board, so far as authorized by general law.

24 "Section 5.3. Town Attorney. The Board shall appoint a Town Attorney licensed to practice
25 law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise
26 Town officials, and perform other duties required by law or as the Board may direct.

27 "Section 5.4. Town Clerk. The Board shall appoint a Town Clerk to keep a journal of the
28 proceedings of the Board, to maintain official records and documents, to give notice of
29 meetings, and to perform such other duties required by law or as the Town Manager may direct.

30 "Section 5.5. Tax Collector. The Town shall have a Tax Collector to collect all taxes owed
31 to the Town, perform those duties specified in G.S. 105-350, and such other duties as
32 prescribed by law.

33 "Section 5.6. Other Administrative Officers and Employees. The Board may authorize other
34 positions to be filled by appointment by the Town Manager, and may organize the Town
35 government as deemed appropriate, subject to the requirements of general law.

36 "Section 5.7. Town Manager's Personnel Authority; Role of Elected Officials. As chief
37 administrator, the Town Manager shall have the power to appoint, suspend, and remove all
38 nonelected officers, department heads, and employees of the Town, with the exception of the
39 Town Attorney and Clerk and any other official whose appointment or removal is specifically
40 vested in the Board by this Charter or by general law. Neither the Mayor nor the Board of
41 Commissioners nor any of its committees or members shall take part in the appointment or
42 removal of nonelected officers, department heads, and employees in the administrative service
43 of the Town, except as provided by this Charter. Except for the purpose of inquiry, or for
44 consultation with the Town Attorney, the Mayor and the Board and its members shall deal with
45 officers and employees in the administrative service only through the Town Manager, Acting
46 Manager, or Interim Manager, and neither the Mayor nor the Board nor any of its members
47 shall give orders or directions to any subordinate of the Town Manager, Acting Manager, or
48 Interim Manager, either publicly or privately.

49 "ARTICLE VI. PUBLIC ENTERPRISE SERVICES

1 "Section 6.1. Collection of Delinquent Bills. If a fee charged by the Town for a public
2 enterprise service remains unpaid for a period of at least 90 days, the Town may collect it in
3 any manner by which delinquent personal or real property taxes can be collected.

4 "Section 6.2. Liens. If the delinquent fees are collected in the same manner as delinquent
5 real property taxes, the delinquent fees are a lien on the real property owned by the person
6 contracting with the Town for the service. If a lien is placed on real property, the lien shall be
7 valid from the time of filing in the office of the clerk of superior court of the county in which
8 the service was provided and shall include a statement containing the name and address of the
9 person against whom the lien is claimed, the name of the Town, the specific service that was
10 provided, the amount of the unpaid charge for that service, and the date and place of furnishing
11 that service. A lien on real property is not effective against an interest in real property conveyed
12 after the fees become delinquent if the interest is recorded in the office of the register of deeds
13 prior to the filing of the lien for delinquent fees. No lien under this Article shall be valid unless
14 filed in accordance with this section after 90 days of the date of the failure to pay for the
15 service or availability fees and within 180 days of the date of the failure to pay for the service
16 or fees. The lien may be discharged as provided in G.S. 44-48. The Town shall adopt an
17 appeals process providing notice and an opportunity to be heard in protest of the imposition of
18 such liens. The county tax office, once notified of the Town's lien, shall include the lien amount
19 on any tax bills printed subsequent to the notification. The county tax office shall add or
20 remove liens from the tax bill at the request of the Town, such as in the case of an appeal where
21 the Town decides to cancel the lien.

22 "Section 6.3. Remedies Not Exclusive. The remedies authorized in this Article are not
23 exclusive, and the Town may use any and all other collection procedures authorized by general
24 law, including, but not limited to, the debt setoff provisions of Chapter 105A of the General
25 Statutes.

26 "ARTICLE VII. STREET AND SIDEWALK IMPROVEMENTS

27 "Section 7.1. Assessments for Street Improvements. In addition to any authority granted by
28 general law, the Board may, without the necessity of a petition, order street improvements and
29 assess fifty percent (50%) of the costs thereof against abutting property, exclusive of the costs
30 incurred at street intersections, according to one or more of the assessment bases set forth in
31 Article 10 of Chapter 160A of the General Statutes.

32 (a) For the purposes of this Article, the term "street improvement" shall include
33 grading, regrading, surfacing, resurfacing, widening, paving, repaving, and the construction or
34 reconstruction of curbs, gutters, and street drainage facilities.

35 (b) The Board must find that the street improvement project does not exceed 1,200
36 linear feet.

37 (c) The Board must make at least one of the following findings of fact:

- 38 (1) The street or part thereof is unsafe for vehicular traffic or creates a safety or
39 health hazard, and it is in the public interest to make such improvement;
- 40 (2) It is in the public interest to connect two streets or portions of a street
41 already improved;
- 42 (3) It is in the public interest to widen a street or part thereof, which is already
43 improved; provided that assessments for widening any street or portion of a
44 street without a petition shall be limited to fifty percent (50%) of the cost of
45 widening and otherwise improving such street in accordance with street
46 classification and improvement standards established by the Town's
47 thoroughfare or major street plan for the particular street or part thereof.

48 "Section 7.2. Assessments for Sidewalk Improvements. In addition to any authority granted
49 by general law, the Board may levy special assessments for sidewalk improvements or repairs
50 without the necessity of a petition. Improvements or repairs may be ordered according to
51 standards and specifications of the Town, and fifty percent (50%) of the total costs assessed

1 against abutting property, not including the cost of improvements made at intersections,
2 according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the
3 General Statutes.

4 "Section 7.3. Procedure; Effect of Assessment. In ordering street or sidewalk improvements
5 without a petition and assessing the costs thereof under authority of this Article, the Board shall
6 comply with the procedures provided by Article 10 of Chapter 160A of the General Statutes,
7 except those provisions relating to petitions of property owners and the sufficiency thereof. The
8 effect of the act of levying assessments under authority of this Article shall be the same as if the
9 assessments were levied under authority of Article 10 of Chapter 160A of the General
10 Statutes."

11 **SECTION 2.** The purpose of this act is to revise the Charter of the Town of Mount
12 Gilead and to consolidate certain acts concerning the property, affairs, and government of the
13 Town. It is intended to continue without interruption those provisions of prior acts that are
14 expressly consolidated into this act, so that all rights and liabilities which have accrued are
15 preserved and may be enforced.

16 **SECTION 3.** This act does not repeal or affect any acts concerning the property,
17 affairs, or government of public schools or any acts validating official actions, proceedings,
18 contracts, or obligations of any kind.

19 **SECTION 4.** The following acts, having served the purposes for which they were
20 enacted or having been consolidated into this act, are expressly repealed:

21 Chapter 90 of the 1899 Private Laws.

22 Chapter 133 of the 1913 Private Laws.

23 Chapter 228 of the 1951 Session Laws.

24 Chapter 152 of the 1953 Session Laws.

25 Chapter 163 of the 1957 Session Laws.

26 Chapter 623 of the 1957 Session Laws.

27 **SECTION 5.** The Mayor and Commissioners serving on the date of ratification of
28 this act shall serve until the expiration of their terms or until their successors are elected and
29 qualified. Thereafter, those offices shall be filled as provided in Articles II and III of the
30 Charter contained in Section 1 of this act.

31 **SECTION 6.** This act does not affect any rights or interests that arose under any
32 provisions repealed by this act.

33 **SECTION 7.** All existing ordinances, resolutions, and other provisions of the
34 Town of Mount Gilead not inconsistent with the provisions of this act shall continue in effect
35 until repealed or amended.

36 **SECTION 8.** No action or proceeding pending on the effective date of this act by
37 or against the Town or any of its departments or agencies shall be abated or otherwise affected
38 by this act.

39 **SECTION 9.** If any provision of this act or application thereof is held invalid, such
40 invalidity shall not affect other provisions or applications of this act that can be given effect
41 without the invalid provision or application and, to this end, the provisions of this act are
42 declared to be severable.

43 **SECTION 10.** Whenever a reference is made in this act to a particular provision of
44 the General Statutes, and such provision is later amended, superseded, or recodified, the
45 reference shall be deemed amended to refer to the amended General Statute, or to the General
46 Statute that most clearly corresponds to the statutory provision which is superseded or
47 recodified.

48 **SECTION 11.** This act is effective when it becomes law.