

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 826
HOUSE BILL 1136

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF
CREEDMOOR AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina do enact:

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

THE CHARTER OF THE CITY OF CREEDMOOR

ARTICLE I. INCORPORATION AND CORPORATE POWERS

Section 1.1. Incorporation and General Powers. The Town of Creedmoor shall continue to be a body politic and corporate under the name and style of the "City of Creedmoor", and shall continue to be vested with all property and rights which now belong to the City; 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.

Sec. 1.2. Exercise of Powers. All powers, functions, rights, privileges, and immunities of the City, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

Sec. 1.3. 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 City of Creedmoor shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

ARTICLE II. CORPORATE BOUNDARIES

Sec. 2.1. Existing Corporate Boundaries. The corporate boundaries of the City of Creedmoor shall be as follows until changed in accordance with law:

BEGINNING at a point in the center of Lake Road, which said point is marked by an iron pin on the southwest side of said Road, thence North 88 degrees 35' E., crossing the Stem Road, 2,504 feet to an iron pin; thence N. 72 degrees 58' E. 3,339

feet to an iron pin; thence N. 1 degree 30' E. 176 feet to an iron pin; thence S. 82 degrees 15' E., crossing U.S. Highway #15, 280 feet to an iron pin; thence S. 1 degree 30' W. 69 feet to an iron pin; thence S. 88 degrees 40' E., crossing the Southern Railroad right-of-way, 1,620 feet to an iron pin; thence S. 4 degrees 53' W. 1,104 feet to an iron pin on the north side of Moss Road; thence S. 62 degrees 15' E. 220 feet to an iron pin; thence a curved line with a radius of 129.90 and a distance of 112.02 feet to an iron pin; thence S 12 degrees 50' E. 55 feet to an iron pin; thence S. 8 degrees 34' E. 175 feet to an iron pin; thence S. 8 degrees 16' E. 313 feet to an iron pin; thence S. 83 degrees 45' W. 430 feet to an iron pin; thence S. 4 degrees 53' W., crossing N.C. Highway #56 and Church Street, 6,085 feet to an iron pin; thence N. 79 degrees 25' W., crossing N.C. Highway #50 and the Southern Railroad right-of-way and Old Durham Road, 6,487.7 feet to an iron pin on the northwest side of said Old Durham Road; thence N. 16 degrees 0' W. 2,125 feet to an iron pin; thence N. 61 degrees 30' W. 747 feet to an iron pin on the southwest side of U.S. Highway #15; thence N. 52 degrees 30' E. 300 feet to an iron pin; thence N. 55 degrees 15' E. 157 feet to an iron pin on the southwest side of U.S. Highway #15; thence N. 33 degrees 0' W., crossing said U.S. Highway #15, 451.5 feet to an iron pin; thence S. 87 degrees 45' E. 246 feet to an iron pin; thence N. 11 degrees 33' W. 2,720 feet to an iron pin; thence N. 71 degrees 57' E. 761 feet to the point and place of the BEGINNING.

The above description is according to plat and survey of Johnnie C. Currin, R.L.S. (made from existing maps and surveys), which plat is dated April 8, 1969.

Sec. 2.2. Extension of Corporate Boundaries. All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

Sec. 3.1. Composition of Board of Commissioners. The Board of Commissioners shall consist of five members to be elected by the qualified voters of the City voting at large in the manner provided in Article IV.

Sec. 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be elected by and from the qualified voters of the City voting at large in the manner provided in Article IV. The Mayor shall be the official head of the City government and shall preside at all meetings of the Board of Commissioners. Where there is an equal division on a question, the Mayor shall determine the matter by his vote, but he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the City. The Board of Commissioners shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

Sec. 3.3. Terms; Qualifications; Vacancies. (a) The Mayor shall serve for a term of two years and members of the Board of Commissioners shall serve for terms of four years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Commissioners or to serve in such capacity, unless he is a resident and a qualified voter of the City.

(c) In the event a vacancy occurs in the office of Mayor or Commissioner, the Board of Commissioners shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

Sec. 3.4. Compensation of Mayor and Councilmen. The Mayor shall receive for his services such salary as the Board of Commissioners shall determine, but no reduction in his salary shall be made to take effect during the term in which it is voted. The Board of Commissioners may establish a salary for its members which may be increased or reduced, but no reduction shall be made to take effect as to any Commissioner during the respective term of office which he is serving at the time the reduction is voted.

Sec. 3.5. Organization of Board; Oaths of Office. The Board of Commissioners shall meet and organize for the transaction of business at a time established by ordinance, following each biennial election and prior to July 1. Before entering upon their offices, the Mayor and each Commissioner shall take, subscribe, and have entered upon the minutes of the Board the following oath of office: "I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of _____, on which I am about to enter, according to my best skill and ability; so help me, God."

Sec. 3.6. Meetings of Board. (a) The Board of Commissioners shall fix suitable times for its regular meetings, which shall be as often as once monthly. Special meetings may be held on the call of the Mayor or a majority of the Board, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

(b) All meetings of the Board shall be open to the public. The Board shall not by executive session or otherwise formally consider or vote upon any question in private session.

Sec. 3.7. Quorum; Votes. (a) A majority of the members elected to the Board of Commissioners shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) Three affirmative votes, which may include the vote of the Mayor in case of equal division among the Commissioners shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of those present and voting.

Sec. 3.8. Ordinances and Resolutions. The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The yeas and nays shall be taken upon all ordinances and resolutions and entered upon the minutes of

the Board. The enacting clauses of all ordinances shall be: "Be it ordained by the Board of Commissioners of the City of Creedmoor". All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

ARTICLE IV. ELECTION PROCEDURE

Sec. 4.1. Regular Elections. Elections shall be held biennially on the Tuesday after the first Monday in May, beginning in 1971. In each election, there shall be elected a Mayor to serve for a term of two years, and the candidate who receives the largest number of votes cast for Mayor shall be declared elected. In the 1971 election and quadrennially thereafter, the three candidates for Commissioner who receive the largest numbers of votes cast for Commissioner shall be declared elected for terms of four years. In the 1973 election and quadrennially thereafter, the two candidates for Commissioner who receive the largest numbers of votes cast for Commissioner shall be declared elected for terms of four years.

Sec. 4.2. Filing of Candidates. Each qualified person who would offer himself as a candidate for the office of Mayor or Commissioner shall file with the City Clerk a statement giving notice of his candidacy. Such notice shall be filed not earlier than sixty (60) days nor later than five o'clock p.m. on the third Friday preceding the election at which he offers his candidacy, shall be accompanied by payment of a filing fee of five dollars (\$5.00), shall be signed in the presence of the City Clerk or his designee, and shall be substantially in the following form: "I _____, do hereby give notice that I am a candidate for election to the office of (Mayor)(Commissioner), to be voted on at the election to be held on _____, and I hereby request that my name be placed on the official ballot for such office. I also certify that I am a resident and qualified voter of the City of Creedmoor, residing at _____.
Date: _____ (Signature) _____.

Sec. 4.5. Ballots. No names other than those of candidates who have properly filed notice as herein required shall be printed upon the ballots for any municipal election.

Sec. 4.6. Voting. In each election, each qualified voter shall be entitled to vote for one candidate for each office to be filled.

Sec. 4.7. Regulation of Elections. All municipal elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections, except as otherwise herein provided.

ARTICLE V. CITY ATTORNEY

Sec. 5.1. Appointment; Qualifications; Term; Compensation. The Board of Commissioners shall appoint a City Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the City during his tenure. The City Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

Sec. 5.2. Duties of City Attorney. It shall be the duty of the City Attorney to prosecute and defend suits for and against the City; to advise the Mayor, Board of Commissioners, and other City officials with respect to the affairs of the City; to draw all legal documents relating to the affairs of the City; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and

other instruments with which the City may be concerned; to attend all meetings of the Board of Commissioners; and to perform such other duties as may be required of him by virtue of his position of City Attorney.

ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

Sec. 6.1. City Clerk. The Board of Commissioners shall appoint a City Clerk to keep a journal of the proceedings of the Board and to maintain in a safe place all records and documents pertaining to the affairs of the City, and to perform such other duties as may be required by law or as the Board may direct.

Sec. 6.2. City Tax Collector. The Board of Commissioners may appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the City, subject to the provisions of this Charter and the ordinances of the City, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

Sec. 6.3. City Accountant. The Board of Commissioners may appoint a City Accountant to perform the duties of the Accountant as required by the Municipal Fiscal Control Act.

Sec. 6.4. Consolidation of Functions. The Board of Commissioners may, in its discretion, consolidate any two or more of the positions of City Clerk, City Tax Collector, and City Accountant, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions. The Board of Commissioners may also, in its discretion, appoint or designate a single employee to perform all or any part of the functions of any of the named offices, in lieu of appointing several persons to perform the same.

ARTICLE VII. FINANCE AND TAXATION

Sec. 7.1. Custody of City Money. All moneys received by the City for or in connection with the business of the City government shall be paid promptly into the City depository or depositories. Such institutions shall be designated by the Board of Commissioners in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys belonging to the City shall accrue to the benefit of the City. All moneys belonging to the City shall be disbursed only in accordance with the provisions of the Municipal Fiscal Control Act.

Sec. 7.2. Issuance of Bonds. The City may issue bonds for the purpose and in the manner prescribed by the General Statutes of North Carolina relating to the issuance of bonds by municipalities.

Sec. 7.3. Purchases and Contracts. Purchases of apparatus, supplies, materials, and equipment, and contracts for construction or repair work, shall be made in accordance with the General Statutes of North Carolina relating thereto.

Sec. 7.4. Independent Audit. As soon as practicable after the close of each fiscal year, an independent audit shall be made of all books and accounts of the City government by a certified public accountant, who shall have no personal interest directly or indirectly in the affairs of the City or of any of its officers. The Board of Commissioners shall select the public accountant, and the results of such audit shall be

made available for inspection by any interested citizen of the City, and may be published if so ordered by the Board of Commissioners.

ARTICLE VIII. POLICE

Sec. 8.1. Jurisdiction Extended. (a) The jurisdiction of the police force is hereby extended to include all unincorporated territory outside and within one mile of the corporate limits, and all members of the police force shall have within such territory all rights, power and authority as they have within the corporate limits.

(b) The jurisdiction of the police force is hereby extended to include all City owned property and facilities whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they have within the corporate limits.

Sec. 8.2. Effect of Ordinances on City Property. All applicable ordinances of the City shall have full force and effect upon and within all property and facilities owned by the City, whether located within or outside the corporate limits.

ARTICLE IX. CLAIMS AGAINST THE CITY

Sec. 9.1. Presentation of Claims; Suit Upon Claims. (a) All claims or demands against the City of Creedmoor arising in tort or in contract shall be presented to the Board of Commissioners in writing, signed by the claimant, his attorney or agent, within ninety days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within thirty days or after the expiration of twelve months from the time said claim or demand is so presented. Unless the claim or demand is so presented within ninety days after the cause of action accrues, and unless suit is brought within twelve months thereafter, any action thereon is barred.

(b) No action shall be instituted against the City on account of damages to or compensation for real property taken or used by the City for any public purpose, or for the ejection of the City therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Commissioners of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this Section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the happening or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the happening or the infliction of the injury complained of, whichever is the longest period. The City may at any time request the appointment of a next friend to represent

any person having a potential claim against the City and known to be suffering from physical or mental incapacity.

Sec. 2. The purpose of this Act is to revise the Charter of the City of Creedmoor and to consolidate herein certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts which are consolidated into this Act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This Act shall not be deemed to repeal, modify, nor in any manner to affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the City of Creedmoor;

(b) Any act validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which enacted, or having been consolidated into this Act, are hereby repealed: Chapter 232, Private Laws, 1895; Chapter 398, Private Laws, 1905; Chapter 220, Private Laws, 1907; Chapter 170, Private Laws, 1913 (Regular Session); Chapter 167, Private Laws, 1917; Chapter 229, Private Laws, 1935; Chapter 522, Public-Local Laws, 1939; Chapter 590, Session Laws, 1943; Chapter 397, Session Laws, 1949; Chapter 1145, Session Laws, 1951; Chapter 1146, Session Laws, 1951; Chapter 777, Session Laws, 1959; Chapter 917, Session Laws, 1961; Chapter 1020, Session Laws, 1961; Chapter 81, Session Laws, 1963.

Sec. 5. No provision of this Act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this Act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this Act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this Act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the City of Creedmoor, and all existing rules or regulations of departments or agencies of the City of Creedmoor, not inconsistent with the provisions of this Act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this Act by or against the City of Creedmoor or any of its departments or agencies shall be abated or otherwise affected by the adoption of this Act.

Sec. 8. Severability. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 10. This Act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1969.