

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

1

SENATE BILL 283

Short Title: Tryon Charter Amendments. (Local)

Sponsors: Senator Hise (Primary Sponsor).

Referred to: State and Local Government.

March 14, 2013

A BILL TO BE ENTITLED
AN ACT AMENDING THE CHARTER OF THE TOWN OF TRYON.
The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Tryon, being Section 1 of Chapter 441 of the 1971 Session Laws, reads as rewritten:

"THE CHARTER OF THE TOWN OF TRYON

...

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

...

"Sec. 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV. The Mayor shall be the official head of the Town 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 or her vote, but he or she shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him or her by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Commissioners shall choose one of its number to act as Mayor Pro Tempore, and he or she 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.

...

(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 or she is a resident and a qualified voter of the Town.

...

"ARTICLE IV. REGULAR ELECTION PROCEDURE

...

"Sec. 4.3. Filing of Candidates. Each qualified person who would offer himself or herself as a candidate for the office of Mayor or Commissioner shall file with the Town Clerk a statement giving notice of his or her 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 or she offers his or her candidacy, shall be accompanied by payment of a filing fee of five dollars (\$5.00), shall be signed in the presence of the Town Clerk or his or her designee, and 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 Town of Tryon residing at ____ .
Date: _____ (Signature)."

...

"ARTICLE V. TOWN MANAGER

"Sec. 5.1. The Board of Commissioners shall appoint a Town Manager who shall be the administrative head of the Town government responsible for the supervision and administration of all departments and ~~employees~~ ~~employees~~, except the Town ~~Attorney~~ ~~Attorney~~ and Town Clerk. Notwithstanding G.S. 160A-148(1), the Board of Commissioners shall appoint the Town Clerk, but may grant to the Town Manager the authority to direct and supervise the Town Clerk to the extent and in the manner deemed appropriate by the Board of Commissioners. The Town Manager shall be appointed with regard to merit only, and he or she need not be a resident of the Town at the time of his or her appointment. He or she shall hold office during the pleasure of the Board of Commissioners and shall receive such compensation as it shall fix by ordinance.

The Town Manager so appointed shall (1) be the administrative head of the Town government; (2) see that within the Town the laws of the State and the ordinances, resolutions and regulations, of the Board of Commissioners are faithfully executed; (3) attend all meetings of the Board of Commissioners, and recommend for adoption such measures as he or she shall deem expedient; (4) make reports to the Board of Commissioners from time to time upon the affairs of the Town, and keep the Board fully advised of the Town's financial condition and its future financial needs; (5) appoint and remove all employees of the Town, except the Town Attorney and Town Clerk, and all appointments and removals of department heads made by the Manager shall be reported to the Board of Commissioners at its next succeeding meeting; and, (6) perform all other duties as may be required by the Board of Commissioners.

"ARTICLE VI. TOWN ATTORNEY

"Sec. 6.1. Appointment; Qualifications; Term; Compensation. The Board of Commissioners shall appoint a Town 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 Town during his or her tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

"Sec. 6.2. Duties of Town Attorney. It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Commissioners, Town Manager, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; and to perform such other duties as may be required of him or her by virtue of his or her position of Town Attorney.

"ARTICLE VII. ADMINISTRATIVE OFFICERS AND EMPLOYEES

"Sec. 7.1. Town Clerk. ~~The Town Manager~~ Notwithstanding G.S. 160A-148(1), the Board of Commissioners may appoint a Town Clerk to keep a journal of the proceedings of the Board of Commissioners and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the ~~Town Manager~~ Board may direct. The Board of Commissioners may grant to the Town Manager the authority to direct and supervise the Town Clerk to the extent and in the manner deemed appropriate by the Board of Commissioners.

"Sec. 7.2. Town Tax Collector. The Town Manager may appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he or she shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

1 ...
2 "Sec. 7.4. Consolidation of Functions. The Town Manager may, with the approval of the
3 Board of Commissioners, consolidate any two or more of the positions of Town Clerk, Town
4 Tax Collector, and Town Accountant, or may assign the functions of any one or more of these
5 positions to the holder or holders of any other of these positions. The Town Manager may also,
6 with the approval of the Board of Commissioners, himself or herself perform all or any part of
7 the functions of any of the named offices, in lieu of appointing other persons to perform the
8 same.

9 "ARTICLE VIII. FINANCE

10 ...
11 "Sec. 8.2. Independent Audit. As soon as practicable after the close of each fiscal year, an
12 independent audit shall be made of all books and accounts of the Town government as provided
13 in G.S. 159-34 by a certified public accountant or a qualified public accountant ~~registered~~
14 certified under Chapter 93 of the General Statutes of North Carolina, who shall have no
15 personal interest directly or indirectly in the affairs of the Town or of any of its officers. The
16 Board of Commissioners shall select the public accountant, and the results of such audit shall
17 be made available for inspection by any interested citizen of the Town, and may be published if
18 so ordered by the Board of Commissioners.

19 "ARTICLE IX. ZONING

20 "The Town of Tryon Planning and Adjustment Board shall be comprised of seven members
21 and two alternates. The Board of Commissioners shall appoint four members and one alternate
22 who shall be residents of the Town. The Board of Commissioners of Polk County shall appoint
23 ~~five-three members and one alternate who shall be residents of the area outside of and within~~
24 ~~one mile of the corporate limits of the Town of Tryon, to serve as members of the Town~~
25 ~~Planning Board, and five residents of such area to serve as members of the Town Zoning Board~~
26 ~~of Adjustment Tryon. Such~~ The members appointed by the Board of Commissioners of Polk
27 County shall have equal rights and privileges with the other members of such Boards the Board
28 in all matters pertaining to the planning and zoning of the territory outside of and within one
29 mile of the corporate limits of the Town. The concurring vote of ~~eight members~~ eighty percent
30 (80%) of the Zoning Board of Adjustment Planning and Adjustment Board shall be necessary in
31 order to reverse any order, requirement, decision, or determination of any administrative
32 official with respect to the territory outside of and within one mile of the corporate limits of the
33 Town.

34 The Board of Commissioners may require that, prior to the beginning of any construction,
35 reconstruction or alteration of any building or structure located within the extraterritorial
36 zoning jurisdiction, a permit be obtained from the Town. The permit shall be issued if the
37 proposed construction, reconstruction or alteration complies with the provisions of the zoning
38 ordinance and map.

39 ...

40 "ARTICLE XII. WATER AND SEWER

41 "Sec. 12.1. Alternative Methods of Assessment. In addition to, and as alternatives, to the
42 method provided in G.S. 160-241 for assessing the costs of water and sewer lines and laterals,
43 the Board of Commissioners, if in its opinion it would be more equitable to do so, is hereby
44 authorized in its discretion to levy any such assessments according to either of the following
45 methods: (1) equally against each of the lots capable of being served by such line or lines, or
46 (2) on the basis of the footage of land upon a public street by an equal rate per foot of such
47 frontage.

48 In lieu of assessing the total cost of a particular project as herein provided, the governing
49 body may annually, between the first days of January and July of each year, determine the
50 average cost of installing water and sewer mains or lines and on the basis of such determination
51 may make assessments of such average cost during the following fiscal year beginning July 1.

The average cost of such installation shall include the cost of the particular size and material of lines completed during the preceding calendar year. It may also include the anticipated increase in labor and materials costs based upon the average of such increases during the preceding five calendar years. The assessment of the average cost of such line shall not be made until after the particular assessment project has been completed. The purpose of this Section is to distribute more equitably the cost of the installation of water and sewer lines throughout the Town; to permit a property owner to know in advance what the cost of installation of water and sewer lines benefiting his or her property will be; and to permit the most expeditious assessment of cost against property after completion of the installation of such lines. The actual cost of acquisition of rights-of-way may also be assessed as a part of the cost of an individual project. If the right-of-way costs have not been determined and assessed with the assessment of the average installation costs at the time of the completion of the project, such costs may be assessed separately when they are determined.

...

"ARTICLE XIII. REFUSE, WEEDS, AND TRASH

"Sec. 13.1. Property Kept Free of Offensive Matter. It shall be the duty of every property owner in the Town to keep his or her property free from noxious weeds, trash, and all other forms of offensive animal or vegetable matter or refuse which may be dangerous or prejudicial to the public health or which may constitute a public nuisance.

...

"ARTICLE XV. CLAIMS AGAINST THE TOWN

"Sec. 15.1. Presentation of Claims; Suit Upon Claims. (a) All claims or demands against the Town of Tryon arising in tort or in contract shall be presented to the Board of Commissioners in writing, signed by the claimant, his or her 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 Town on account of damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his or her 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 or her to give notice, his or her action shall not be barred if notice of claim is given by him or her or on his or her behalf within six months after the termination of his or her incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his or her action shall not be barred if notice of claim is given on his or her 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 or her to give notice, his or her action shall not be barred if notice of claim is given on his or her 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 longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity."

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