

**TRYON, NORTH CAROLINA
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(1971 SESSION LAWS, CHAPTER 441, SENATE BILL 491)

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ARTICLE I. INCORPORATION AND CORPORATE POWERS

An Act to revise and consolidate the Charter of the Town of Tryon and to repeal prior charter acts.

The General Assembly of North Carolina do enact:

Section 1. [Charter Revision, Consolidation.]

The charter of the Town of Tryon is hereby revised and consolidated to read as follows:

Sec. 1.1. Incorporation and general powers.

The Town of Tryon shall continue to be a body politic and corporate under the name and style of the “Town of Tryon”, 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.

Sec. 1.2. Exercise of powers.

All powers, functions, rights, privileges and immunities of the Town, its officers, agencies or employees, shall be so 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 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 Town of Tryon 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.

Sec. 1.4. Form of government.

The form of government of the Town of Tryon shall be the council-manager form, as specified in this Charter.

ARTICLE II. CORPORATE BOUNDARIES

Sec. 2.1. Existing corporate boundaries.

The corporate boundaries of the Town of Tryon shall be as follows until changed in accordance with law:

Three-fourths (3/4) of a mile (3,960 feet) in every direction from the intersection of Pacolet Street with the main line of the Southern Railway System. Said intersection is shown on Sheet 17 and Sheet 18 of the Block Map of the Town of Tryon, N.C., prepared by Harwood Beebe Company, Engineers, dated December, 1960.

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 four members to be elected by the qualified voters of the town voting at large in the manner provided in Article IV.

(Charter passed 5-26-71; Amending Ord. 2003-7, passed 8-19-03)

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 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.

(a) Except as provided in section 4.1, the members of the board of commissioners shall serve for terms of four years, and the mayor shall serve a term of two 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 or she is a resident and a qualified voter of the town.

(c) In the event a vacancy occurs in the office of 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. Organization of board of commissioners; oaths of office.

The board of commissioners shall meet and organize for the transaction of business at the first regularly scheduled meeting of the board following each biennial election and prior to July 1. Before entering upon their offices, the mayor and each commissions 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. 3.5. Meetings of board.

(a) The town board 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. 3.6. Quorum; votes.

A majority of the members elected to the town board 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.

Sec. 3.7. 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 Town of Tryon.” All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

ARTICLE IV. REGULAR ELECTION PROCEDURE

Sec. 4.1 Regular Elections.

(a) Regular municipal elections shall be held biennially on the Tuesday after the first Monday in November in odd-numbered years. In each biennial election, there shall be elected two commissioners.

(b) Notwithstanding the provisions of subsection (a) above, in 2003 only, there shall be elected three commissioners. The candidates for commissioner who receive the largest and

second largest number of votes shall each be elected for a term of four (4) years, and the candidate for commissioner who receives the third largest number of votes shall be elected for a term of two (2) years.

(Charter passed 5-26-71; Amending Ord. 2003-7, passed 8-19-03)

Sec. 4.2. Voting.

Each voter shall be entitled to vote for one candidate for mayor and for as many candidates for Commissioner as there are offices to be filled. The candidate for mayor who receives the largest number of votes cast for mayor shall be declared elected.

Sec. 4.3. Filing of candidates.

Each qualified person who would offer himself as a candidate for the office of mayor or commissioner shall file with the town clerk a statement giving notice of his candidacy. Such notice shall be filed not earlier than sixty (60) days nor later than 5:00 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 \$5, shall be signed in the presence of the town clerk or his 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)

Sec. 4.4. 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. 4.5. 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. TOWN MANAGER

Sec. 5.1. [Generally.]

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, except the Town 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 by 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 town 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.

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 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.

Sec. 7.3 Town accountant.

The town manager may appoint a town accountant to perform the duties of the accountant as required by the municipal Fiscal Control Act.

Sec. 7.4. Consolidation of functions.

The town manager may, with the approval of the board of commissioners, consolidate any two or more of the positions of town clerk, town tax collector, and town 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 town manager may also, with the approval of the board of commissioners himself or herself perform all or any part of the functions of any of the named offices, in lieu of appointing other persons to perform the same.

ARTICLE VIII. FINANCE

Sec. 8.1. Custody of town money.

All moneys received by the town for or in connection with the business of the town government shall be paid promptly into the town depository or depositories. Such institutions shall be designated by the town board 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 town shall accrue to the benefit of the town. All moneys belonging to the town shall be disbursed only in accordance with the provisions of the Municipal Fiscal Control Act.

Sec. 8.2. 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 town government as provided in G.S. 159-34 by a certified public accountant or a qualified public accountant certified under G.S. § 93, who shall have no personal interest directly or indirectly in the affairs of the town 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 town, and may be published if so ordered by the board of commissioners.

ARTICLE IX. ZONING

[Sec. 9.1. Generally.]

The Town of Tryon Planning and Adjustment Board shall be comprised of seven members and two alternates. The Board of Commissioners shall appoint four members and one alternate who shall be residents of the Town. The Board of Commissioners of Polk County shall appoint three members and one alternate who shall be residents of the area outside of and within one mile of the corporate limits of the Town of Tryon. The members appointed by the Board of Commissioners of

Polk County shall have equal rights and privileges with the other members of the Board in all matters pertaining to the planning and zoning of the territory outside of and within one mile of the corporate limits of the town. The concurring vote of eighty percent (80%) of the Planning and Adjustment Board shall be necessary in order to reverse any order, requirement, decision, or determination of any administrative official with respect to the territory outside of and within one mile of the corporate limits of the town.

The board of commissioners may require that, prior to the beginning of any construction, reconstruction or alteration of any building or structure located within the extraterritorial zoning jurisdiction, a permit be obtained from the town. The permit shall be issued if the proposed construction, reconstruction or alteration complies with the provisions of the zoning ordinance and map.

ARTICLE X. POLICE

Sec. 10.1. [Jurisdiction.]

The jurisdiction of the police force is hereby extended to include all town 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. 10.2. Effect of ordinances on town property.

All applicable ordinances of the town shall have full force and effect upon and within all property and facilities owned by the town, whether located within or outside the corporate limits.

ARTICLE XI. STREET AND SIDEWALK IMPROVEMENTS

Sec. 11.1. Street improvements; assessment of costs.

In addition to any authority which is now or may hereafter be granted by general law to the town for making street improvements, the board of commissioners is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

Sec. 11.2. When petition unnecessary.

The board of commissioners may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property owners at an equal rate per front foot, without the necessity of a petition, upon the finding by the Board as a fact:

- (a) That the street improvement project does not exceed 1,200 linear feet, and
- (b) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

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

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

Sec. 11.3. Street improvement defined.

For the purposes of this article, the term “street improvement” shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

Sec. 11.4. Sidewalks; assessment of costs.

In addition to any authority which is now or may hereafter be granted by general law to the town for making sidewalk improvements, the board of commissioners is hereby authorized to order to be made or to make sidewalk improvements or repairs according to standards and specifications of the town, and to assess the total cost thereof against abutting property owners; provided, however, that the board of commissioners may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street. In ordering sidewalk improvements or repairs under authority of this Section, the board of commissioners shall comply with the procedure provided by G.S. § 160-9 [now § G.S. 160A-10], except those provisions relating to the petition of property owners and the sufficiency thereof. The effect of levying assessments under authority of this Section shall for all purposes be the same as if the assessments were levied under authority of G.S. § 160-9 [now G.S. § 160A-10].

Sec. 11.5. Assessment procedure.

In ordering street improvements without a petition and assessing the cost thereof under authority of this article, the board of commissioners shall comply with the procedure provided by G.S. § 160-9 [now G.S. § 160A-10], except those provisions relating to the petition of property owners and the sufficiency thereof.

Sec. 11.6. Effect of assessment.

The effect of the act of levying assessments under authority of this article shall for all purposes be the same as if the assessments were levied under the authority of G.S. § 160-9 [now G.S. § 160A-10].

ARTICLE XII. WATER AND SEWER

Sec. 12.1. Alternative methods of assessment.

In addition to, and as alternatives, to the method provided in G.S. § 160-241 [G.S. § 162A-1, et seq.] for assessing the costs of water and sewer lines and laterals, the board of commissioners, if, in the opinion, it would be more equitable to do so, is hereby authorized in its discretion to levy any such assessments according to either of the following methods: (1) equally against each of the lots capable of being served by such line or lines, or (2) on the basis of the footage of land upon a public street by an equal rate per foot of such frontage.

In lieu of assessing the total cost of a particular project as herein provided, the governing body may annually, between the first days of January and July of each year, determine the average cost of installing water and sewer-mains or lines and on the basis of such determination 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 rights-of-way costs have not been determined and assessed with the assessment of the project, such costs may be assessed separately when they are determined.

Sec. 12.2. Water connections.

In addition to the authority granted by G.S. § 160-240 [now G.S. § 162A-1 et seq.], the board of commissioners may require owners of improved property which may be located upon or near any water line of the town to connect with the town water system, and may establish and collect reasonable charges for such connections.

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.

Sec. 13.2. Removal of offensive matter; charges a lien.

The board of commissioners may by ordinance establish a procedure whereby Town forces may clean, cut, and remove any weeds, trash, refuse or other offensive matter from any property upon failure of the owner or occupant after ten days notice to do so. In such event, the cost of such cleaning, cutting and removal shall become a lien upon the particular property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs and

penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes.

ARTICLE XIV. REGULATORY POWERS

Sec. 14.1. Subdivision regulations.

Any subdivision control ordinance enacted by the board of commissioners pursuant to general law may also provide for the more orderly development of subdivisions by requiring the construction of community service facilities, including water lines; sewer lines; street paving, curbing, and guttering; and street and storm drainage facilities in accordance with town standards and specifications and, to assure compliance with such requirements, the ordinance may require the posting of bond or such other method as will offer guarantee of compliance.

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 attorney or agent, within ninety (90) 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 (90) 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 ejection of the town therefrom, nor 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 (3) years after the happening or the injunction 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 (6) months after termination of the incapacity, or within three (3) 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. [Purpose of act.]

The purpose of this act is to revise the charter of the Town of Tryon and to consolidate herein

certain acts concerning the property, affairs, and government of the town. 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.

SECTION 3. [Effect of act on other laws.]

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

(a) An act concerning the property, affairs, or government of public schools in the Town of Tryon;

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

SECTION 4. [Acts repealed.]

(a) The following acts or portions of acts, having served the purposes for which enacted, or having been consolidated into this Act, are hereby repealed: c. 106, Private Laws of 1885; c. 39, Private Laws of 1891; c. 324, Private Laws of 1903; c. 22, Private Laws of 1907; c. 463, Private Laws of 1907; c. 66, Private Laws of 1911; c. 80, Private Laws of 1911; c. 133, Private Laws of 1911; c. 140, Private Laws of 1915; c. 66, Private Laws - Extra Session 1921; c. 76, Private Laws 1923; c. 106, Session Laws 1945; c. 569, Session Laws of 1957; c. 635, Session Laws of 1959; c. 202, Session Laws of 1959; c. 436, Session Laws of 1961.

SECTION 5. [Rights, interests not affected.]

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.

SECTION 6. [Acts not revived.]

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.

SECTION 7. [Effect on existing ordinances, actions.]

(a) All existing ordinances and resolutions of the Town of Tryon, and all existing rules or regulations of departments or agencies of the Town of Tryon, 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 Town of Tryon or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

SECTION 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.

SECTION 9. [Repealer provision.]

All laws and clauses of laws in conflict with this act are hereby repealed.

SECTION 10. [Effective date.]

Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified, this the 11th day of July, 2013.

Daniel J. Frost

President of the Senate

Thom Tillis

Speaker of the House of
Representatives