

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 686
HOUSE BILL 819

AN ACT TO AMEND THE CHARTER OF THE CITY OF GREENSBORO, AS REVISED AND REORGANIZED BY CHAPTER 1137 OF THE SESSION LAWS OF 1959; TO AMEND SECTION 135 OF CHAPTER 18 OF THE GENERAL STATUTES OF NORTH CAROLINA; AND TO REPEAL CHAPTER 360, SESSION LAWS OF 1955.

The General Assembly of North Carolina do enact:

Section 1. Section 2.21 (a) of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by rewriting the second sentence thereof as follows:

"The primary election shall be held on the second Tuesday preceding a general municipal election."

Sec. 2. Section 2.41(a) of the Charter of the City of Greensboro, as set forth in Section 1, Session Laws of 1959, is amended by changing the comma following the words "City Council" in line three of said Section 2.41(a) to a period and repealing the rest of said Section.

Sec. 3. Section 2.46 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding the following sentence at the end thereof:

"Unless provided otherwise in this Charter, Chapter 163 of the General Statutes shall govern all city elections, and the Guilford County Board of Elections shall exercise the functions established in said chapter in connection therewith."

Sec. 4. Chapter II, Subchapter D of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding a new Article heading following Section 2.61 as follows:

"ARTICLE 2. INITIATIVE, REFERENDUM AND RECALL".

Sec. 5. Section 3.23(b) of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding the following paragraph at the end of said subsection (b):

"The reading of the title or substantial portion of the title as set out in the agenda of the council meeting shall constitute the introduction of a proposed ordinance or amendment to a proposed ordinance. In the event the ordinance is not adopted at the council meeting at which it is introduced, the city clerk shall note the date of introduction thereon."

Sec. 6. Section 3.42(a) of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding new sentences at the end thereof as follows:

"All requirements of any law as to notice and hearing shall be deemed to be complied with if, prior to the adoption of any compilation or codification of the city ordinances by the city council, a notice is published once a week for four successive weeks as provided in subsection (d) of this Section, stating the date, time, and place for a public hearing by the council on the adoption of a compilation or codification and that a copy of the same is available in the office of the city clerk for public inspection, and thereafter a public hearing is held by the city council prior to such adoption. Such adoption shall not be construed to be a cessation, however brief, of the ordinances of the city or the city government, but a continuation of the same with such changes as are provided for in the ordinances."

Sec. 7. Section 3.42 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding a new subsection at the end of Section 3.42 as follows:

"(e) In any instance where the Charter of the City of Greensboro or the General Statutes of North Carolina provide that a sale may be had after publication of notice once a week for a number of successive weeks in a newspaper published in the City of Greensboro, the sale may be held on the day following the last day of publication."

Sec. 8. Section 4.51 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding the following sentences at the end thereof:

"Subject to such conditions as it may impose, the city council may authorize the city treasurer, upon discovering a clerical error in any payment made within the preceding five years or to be made to the city for taxes, assessments for local improvements, utility charges, or any other kind of debt owed to the city, to refund the amount paid in error or to rebate the amount charged in error and to be paid, and the city treasurer shall have no liability for making any refund or rebate if he secures the approval of the city attorney therefor. The city treasurer may require such proof of error as may be satisfactory to him in justifying any refund or rebate."

Sec. 9. Chapter VI of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding a new Section following Section 4.63 as follows:

"Sec. 4.64. Issuance of licenses by tax collector. All licenses authorized by the General Statutes of North Carolina and the ordinances of the City of Greensboro, and particularly the license authorized by G. S. 18-135, shall be issued by the tax collector or other official designated by the city manager without the approval of the city council."

Sec. 10. Section 4.91(b) of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding at the end thereof the following:

"In addition to the compensation and salaries fixed or approved by the city council, the council may provide for group insurance for city employees to provide any or all of the following benefits:

(1) Life insurance benefits payable upon the death of an employee not to exceed twenty-five thousand dollars (\$25,000.00). The amount of insurance to be provided for an employee may be based on either rate of pay or classification. The premium may be paid by City of Greensboro, or by the city and employees jointly.

(2) Life insurance benefits payable upon the death of any dependent of an employee; provided that the full cost of such coverage shall be paid by the employee.

(3) Life insurance benefits payable upon the death of an employee after his retirement under either the Local Governmental Employees Retirement System, the Federal Social Security System, the State Law Enforcement Officers Benefit and Retirement Fund, or any combination thereof; provided that the amount of such benefits or coverage shall be determined by the city council and the full cost of continuing such coverage after retirement shall be paid by the employee.

(4) The accumulation of life insurance cash reserve values for an employee; provided, that the full cost of such coverage is paid by the employee.

(5) Benefits payable under hospitalization insurance arising out of the hospitalization of an employee. The premium may be paid by the City of Greensboro, by the city and employees jointly, or by the employee.,

(6) Benefits payable under hospitalization insurance arising out of the hospitalization of a dependent of an employee; provided that the full cost of such coverage shall be paid by the employee.

(7) Benefits payable under hospitalization insurance arising out of the hospitalization of a retired employee or the dependent of a retired employee after his retirement under either the Local Governmental Employees Retirement System, the State Law Enforcement Officers Benefit and Retirement System, or the Federal Social Security System, or any combination thereof; provided that the full cost of continuing such coverage after retirement shall be paid by the employee."

Sec. 11. Section 4.94 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding the words "City Clerk" after the colon following the words "according to law:".

Sec. 12. Article 2, subchapter D, Chapter V of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding the following Section at the end thereof:

"Sec. 5.74. Housing Commission. (a) The city council may provide for the creation and organization of a housing commission to which appeals may be taken from the decision of the building inspector upon any provision of the housing code of the city.

(b) The commission shall consist of five members to serve for three-year overlapping terms. It shall have power to elect its own officers, to fix the times and places for its meetings, to adopt necessary rules of procedure, and to adopt all other rules and regulations not inconsistent herewith which may be necessary for the proper discharge of its duties; and it shall keep an accurate record of all its proceedings.

(c) An appeal from any decision or order of the building inspector may be taken by any person aggrieved thereby or by any officer, board or commission of the city. Any appeal from the building inspector to the commission shall be taken within such reasonable time as shall be prescribed by the commission by general rule and shall be taken by filing with the building inspector and with the secretary of the commission a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the building inspector shall forthwith transmit to the commission all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the building inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the building inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement of the building inspector until the hearing by the commission, unless the building inspector certifies to the commission, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted, for due cause shown and upon not less than one day's written notice to the building inspector, by the commission or by the Superior Court of Guilford County.

(d) The commission shall fix a reasonable time for the hearing of all appeals and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The commission may reverse or affirm, wholly or partly, or may modify the decision appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the building inspector; but the concurring vote of four members of the commission shall be necessary to reverse or modify any decision of the building inspector. The commission shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the housing code, to adapt the application of the code to the necessities of the case to the end that the spirit of the code shall be observed, public safety and welfare secured and substantial justice done.

(e) Every decision of the commission shall be subject to review by the Superior Court of Guilford County by proceedings in the nature of certiorari instituted within fifteen days of the decision of the commission, but not otherwise."

Sec. 13. Section 5.111 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding the following subsection (d) at the end thereof:

"(d) The city council shall have authority to provide for the towing and impounding of vehicles unlawfully parked on city streets and on other public places."

Sec. 14. Section 6.11 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended to read as follows:

"Sec. 6.11. Sale of Cemetery Lots. Lots may be sold and maintained in cemeteries owned by the city under rules and regulations prescribed by the city manager and

approved by the city council. The city council shall establish sale prices and fees for opening graves, and may prohibit or regulate burials at places other than in cemeteries owned by the city."

Sec. 15. Section 6.41 (b) (3) of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by inserting the following between the word "fish" and the semicolon in said Section:

", and any lake wardens so employed shall, upon taking a proper oath, have all of the powers of peace officers, including the power of arrest, for the purpose, and no other, of enforcing Federal and State laws, and ordinances, rules and regulations of the city which laws, ordinances, rules and regulations pertain to the protection of the city watershed and the protection of game and wildlife in said area; provided, that such lake wardens shall not be police officers of the city, nor shall they be eligible for membership in the Law Enforcement Officers Benefit and Retirement Fund, or the Greensboro Police Emergency Reserve Fund."

Sec. 16. Section 6.56 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by striking out the word "thirty" appearing between the word "within" and the word "days" and substituting therefor the word "sixty".

Sec. 17. Chapter VI of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding a new Section immediately following Section 6.83, as follows:

"Sec. 6.84. Deposits by tenants; final disposition of deposits. In addition to other remedies now provided for the collection of any charge for utility service or the use of utility facilities and as a part of the cost of such utility service, a deposit by a tenant of the premises to be served may be required. The deposits may vary according to the type of service. The utility service charge, if not paid within the time designated, may be deducted from the deposit and utility service may be cut off and not be turned on again until the balance of the deposit is increased to the original amount thereof. In order that the utility of the city may be protected and that the costs of services shall be paid by the person receiving such services, a tenant may give notice that the premises have been or will be vacated and that the utility should be cut off, and, in the event that all charges due are paid he shall be entitled to the return of his deposit. In the event the tenant shall vacate the premises without notifying the city and having the utility cut off, he shall forfeit to the city any balance of such deposit remaining after the utility service charge due has been deducted. Such forfeited money may be used by the city for the payment of principal or interest on the bonded indebtedness of the city incurred for the utility involved or the money may be used for the maintenance or extension of the utility service involved."

Sec. 18. Section 6.138(b) of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by striking out the letter "(h)" appearing in the last line of said subsection (b) and substituting in lieu thereof the letter "(g)".

Sec. 19. Section 6.138(e) of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding the following

at the end of subsection (e): ", or when, in the judgment of the city council, a sewage pumping station is required in the interest of the public health."

Sec. 20. Section 6.144 (a) (2) of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by repealing the fourth and fifth sentences thereof and substituting the following:

"As a part of the extension of water or sewer mains, pumping stations, discharge lines, and outfalls may be constructed and the cost thereof assessed against the property to be served, at an equal rate on an acreage basis or front foot basis; provided, that nothing herein contained shall limit the power of the council to contract with any property owner for such facilities."

Sec. 21. Chapter VI of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding a new Section after Section 6.161 of said Chapter VI as follows:

"Sec. 6.162. Acceptance of deed in lieu of taxes or assessments or both. When taxes or assessments for local improvements or both are due on real property located in the city, the owner or owners thereof may convey such real property to the city in payment of such taxes or assessments or both; provided, that such conveyance to the city shall not interfere with the lien for taxes due any taxing unit other than the city. Any real property conveyed to the city may be sold by it as provided in this Charter. The acceptance of deeds in satisfaction of taxes or assessments or both and the sale of such property are hereby validated."

Sec. 22. Chapter VI of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding a new Section after Section 6.162 as follows:

"Sec. 6.163. Authority to acquire entire lot, block, or tract. Whenever it appears that the residual portion of a lot, block, or tract of land remaining unused upon the completion of any local improvements will be substandard according to applicable subdivision, zoning, or other requirements pertaining to the use of land, or will be unusable because of abutting street grades or other conditions, the city council is authorized, but not required, to acquire the entire lot, block, or tract by purchase or condemnation, and to provide, by public auction, exchange, or private conveyance on the basis of a disinterested appraisal, for the recombination of said residual with other property in order to prevent the creation of substandard property."

Sec. 23. Section 7.03 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by rewriting the first sentence thereof as follows:

"The city manager may settle claims against the city for (1) personal injury or for damages to property when the amount involved does not exceed the sum of five hundred dollars (\$500.00) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred, and (2) the taking of property for rights of way in connection with public improvements which the city is authorized by law to make, when the amount involved in any such settlement does not exceed the sum of five hundred dollars (\$500.00) and does not exceed the actual loss sustained."

Sec. 24. Chapter VII of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding at the end thereof the following:

"SUBCHAPTER B. CLAIMS BY THE CITY

"Sec. 7.21. Settlement of Claims by the City Manager. The city manager is hereby authorized to execute releases of persons, firms and corporations because of damages to personal property belonging to City of Greensboro when the full amount of damages to such property is ascertained and a statement thereof has been furnished to the city manager by the city attorney and the amount of such release does not exceed five hundred dollars (\$500.00). In the event that draft or check is presented to the city which constitutes a release, instead of a regular release form, the city manager is hereby authorized to direct that such draft or check be handled as other payments to the city and, when approved by the city manager, shall constitute a release to the extent stated on the draft or check."

Sec. 25. Chapter VII of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137, Session Laws of 1959, is amended by adding at the end thereof the following:

"SUBCHAPTER C. WAIVER OF GOVERNMENTAL IMMUNITY

"Sec. 7.41. Authority of City Council. The city council, by causing liability insurance to be provided by the city, is hereby authorized and empowered, but not required, to waive its governmental immunity from liability for any damage by reason of death or injury to person or property proximately caused by the negligent act of an officer, agent or employee of the city when acting within the scope of his authority and within the course of his employment. Such immunity is waived only to the extent of the amount of the insurance, and shall be deemed to have been waived in the absence of affirmative action by the city council.

"Sec. 7.42. Contract of insurance; payment of premiums. The contract of insurance purchased pursuant to this subchapter must be issued by a company licensed to execute insurance contracts in this State, and must insure the city against liability for any damage by reason of death or injury to person or property proximately caused by the negligent act of any officer, agent, or employee of the city when acting within the scope of his authority and within the course of his employment. By such act, any company which enters into a contract of insurance as above described waives any defense based upon the governmental immunity of the city from liability. The city treasurer is authorized and empowered to pay, as a necessary expense, the premiums for such insurance out of the general fund of the city.

"Sec. 7.43. Actions for negligence. Any person sustaining damage, or, in case of death, his personal representative, may sue the city for the recovery of such damages, and it shall be no defense to any such action that the officer, agent, or employee involved was in pursuance of a governmental, municipal, or discretionary function of the city if, and to the extent, the city has insurance coverage, as provided by this subchapter, at the time the cause of action arises. Except as hereinbefore expressly provided, nothing in this subchapter shall be construed to deprive the city of any defense or to restrict, limit, or otherwise affect any defense which the city may have at

common law or by virtue of any statute (whether general, special, private or local), and nothing in this subchapter shall be construed to relieve any person sustaining damages, or any personal representative of the same, from any duty to give notice of claim to the city, or to commence any civil action for the recovery of damages within the period of time prescribed by statute. The city's liability insurance shall not be brought to the attention of the trial jury or prospective trial jurors, and, if brought to the attention of the trial jury, an order of mistrial shall be entered. The plaintiff shall be deemed to have waived the right to have a jury determine all issues of law or fact relating to insurance, and the jury shall be absent during any motions, arguments, testimony, or announcement of findings of fact or conclusions of law with respect thereto unless the defendant shall ask for a jury trial thereon."

Sec. 26. Chapter 1137, Section 18, Session Laws of 1959, is hereby repealed.

Sec. 27. Chapter 360, Session Laws of 1955, is hereby repealed.

Sec. 28. All laws and clauses of laws in conflict with this Act are repealed.

Sec. 29. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1961.