

NORTH CAROLINA GENERAL ASSEMBLY
1965 SESSION

CHAPTER 497
HOUSE BILL 626

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF
DENTON.

The General Assembly of North Carolina do enact:

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

"THE CHARTER OF THE TOWN OF DENTON

"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Section 1.1. Incorporation and General Powers. The town of Denton shall continue to be a body politic and corporate under the name of the 'town of Denton,' 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.

"Section 1.2. Exercise of Powers. All powers, functions, rights, privileges, and immunities of the town, 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.

"Section 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 Denton 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

"Section 2.1. Existing Corporate Boundaries. The corporate boundaries of the town of Denton shall be as follows until changed in accordance with law:

"Beginning at a concrete marker, said beginning corner being South 84 degrees 51 minutes East 699.40 feet from a point where the corporate limits of the town of Denton

crosses the center line of the H.P.T. & D. Railroad as shown in Plat Book 10, Page 36; thence South 33 degrees 18 minutes East and crossing a point in the center of East First Street at 1917.50 feet, and continuing for a total distance of 2890.00 feet to a concrete marker; thence South 4 degrees 15 minutes West 1735.00 feet to a concrete marker; thence South 55 degrees 00 minutes West and crossing a point in the center of Highway No. 109 at 850.00 feet and continuing for a total distance of 1413.00 feet to a concrete marker; thence North 85 degrees 47 minutes West 2061.00 feet to a concrete marker; thence North 34 degrees 13 minutes West and crossing a point in the center of the H.P.T. & D. Railroad at 1754.00 feet and continuing for a total distance of 3134.00 feet to a concrete marker; thence North 6 degrees 25 minutes East and crossing the center of Salisbury Street at 481.70 feet and continuing for a total distance of 860.00 feet to a concrete marker; thence North 43 degrees 55 minutes East 2165.00 feet to a concrete marker; thence South 84 degrees 51 minutes East and crossing a point in the center of the H.P.T. & D. Railroad at 1220.00 feet and continuing for a total distance of 1919.40 feet to the point of beginning, containing 438.20 acres, more or less, as is shown by a map of the Corporate Limits of Denton, N. C., duly recorded in Plat Book 10, Page 36, office of the Register of Deeds for Davidson County, N. C.

"Section 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

"Section 3.1. The governing body shall consist of a mayor and a board of commissioners composed of five members to be elected by the qualified voters of the town at large in the manner provided by Article IV.

"Section 3.2. Terms; Qualifications; Vacancies.

"(a) The members of the board of commissioners shall serve for terms of four years, and the mayor shall serve for a term of two years, except as provided in Article IV, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter. Provided, the mayor and members of the board of commissioners 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 town.

"(c) If any elected commissioner shall refuse to qualify, or if there shall be any vacancy in the office of commissioner after election and qualification, the remaining members of the board of commissioners shall by a majority vote appoint some qualified person to serve for the unexpired term for which the commissioner vacating the office was elected. A commissioner appointed to fill an unexpired term shall serve the entire term for which he was appointed notwithstanding the fact that a biennial municipal election is held during such term. Any commissioner so appointed shall have the same authority and powers as if regularly elected.

"(d) In the event of a vacancy in the office of mayor, the board of commissioners shall appoint one of their number to fill the unexpired term and until his successor is elected and qualified at the biennial municipal election next following.

"Section 3.3. Duties of Mayor and Appointment of Mayor Pro Tempore. 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 upon any question, or in the appointment of officers, by the board, the mayor shall determine the matter by his vote, and 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 town. 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.

"Section 3.4. Compensation of Mayor and Commissioners. The mayor shall receive for his services such salary as the board of commissioners shall determine, and no increase or reduction in his salary shall be made to take effect during the term in which he is elected. The board of commissioners may establish a salary for its members which may be increased or reduced, but no increase shall be made to take effect as to any commissioner during the respective term of office which he is serving at the time the increase is voted.

"Section 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 which I am about to enter, according to my best skill and ability; so help me, God.'

"Section 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 commissioners, 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 of commissioners 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.

"Section 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) The affirmative vote of a majority of the members of the board of 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 the members present and voting, except as otherwise herein provided.

"Section 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 clause of all ordinances shall be: 'Be it ordained by the board of commissioners of the town of Denton.' All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV. ELECTION PROCEDURE

"Section 4.1. Regular Municipal Elections. The regular municipal elections shall be held on the Tuesday after the first Monday in May of each even-numbered year.

"(a) At the regular May, 1966, municipal election of the town of Denton, there shall be elected a mayor and two (2) commissioners. The two (2) commissioners elected shall serve for a term of four years or until their successors are duly elected and qualified. At the regular May, 1968, municipal election, there shall be elected three (3) commissioners who shall serve for a term of four years or until their successors are duly elected and qualified. Thereafter, all successors to the board of commissioners shall be elected at the regular biennial municipal election to serve for terms of four years each. The mayor shall continue to be elected at the regular biennial municipal election for a term of two years or until his successor is duly elected and qualified.

"Section 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 town clerk a statement giving notice of his candidacy. Such notice shall be filed not earlier than sixty days nor later than ten days prior to the election at which he offers his candidacy, shall be accompanied by payment of a filing fee of five dollars (\$5.00), 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 (or 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 Denton, residing at _____.

_____ (Signature) _____

_____ (Date) _____

Witness: _____

"Section 4.3. 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 ATTORNEY

"Section 5.1. 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 tenure. The town attorney shall serve at the pleasure of the board of commissioners and shall receive such compensation as the board shall determine.

"Section 5.2. 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, 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; to attend meetings of the board of commissioners, when his services are required; and to perform such other duties as may be required of him by virtue of his position as town attorney.

"ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

"Section 6.1. Town Clerk. 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 of commissioners may direct.

"Section 6.2. Town Tax Collector. The board of commissioners 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 shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Section 6.3. Town Accountant. The board of commissioners may appoint a town accountant to perform the duties of the accountant as required by the Municipal Fiscal Control Act.

"Section 6.4. Consolidation of Functions. The board of commissioners may, in its discretion, consolidate any two or more of the offices of town clerk, town tax collector, and town accountant, or may assign the functions of any one or more of these offices to the holder or holders of any other of these offices.

"ARTICLE VII. LOCAL IMPROVEMENTS

"Section 7.1. When Petition Unnecessary.

"(a) Whenever in the judgment of the governing body of the town of Denton any street or part of a street is unsafe and dangerous, or whenever unpaved, the dust from such street is detrimental to health and injurious to property, or whenever the paving or repaving of any street or part thereof is necessary in order to connect streets already paved, or whenever the paving of any street is necessary in order to connect any paved portion of such municipality's streets with a paved highway outside the corporate limits of such municipality, or whenever the paving of any street or part thereof is necessary to provide a paved approach to any railroad underpass or overpass or other bridge, or whenever any paved street or part thereof has been widened, if in such case, in the opinion of the governing body, public interest requires that said improvement be made, and if, in the opinion of the governing body, the abutting property will be benefited by said improvement to the extent of the part of the cost thereof to be assessed against such abutting property, the governing body may without petition of the property owners order the making of such improvement. Whenever any such improvement is ordered made by authority of this subsection the ordering of the paving of any street or part thereof may include the necessary water main and sewer improvements and the

necessary water and sewer laterals, and it may, but need not, include the construction of sidewalks on one or both sides of the street.

"(b) Preliminary Resolution. When it is proposed to make without petition any improvement or improvements authorized to be made without petition by subsection (1) of this Act, the governing body shall adopt a resolution which shall contain substantially the following:

"(1) A statement of the reasons for making the proposed improvements;

"(2) A brief description of the proposed improvement or improvements;

"(3) The proportion of the cost of the improvement or improvements to be specially assessed and the terms of payment;

"(4) A notice of the time and place, when and where a public hearing will be held on the proposed improvement or improvements. (The time fixed for such public hearing shall be such as to allow of notice being given thereof not less than ten days prior thereto);

"(5) A notice that all objections to the legality of the making of the proposed improvement or improvements shall be made in writing, signed in person or by attorney, and filed with the clerk of the municipality at or before the time of such hearing, and that any such objections not so made will be waived.

"The resolution shall be published one time in a newspaper published in the municipality, or if there be no such newspaper, such resolution shall be posted in three public places in the municipality for at least five days, the date of publication or posting of the resolution to be not less than ten days prior to the date fixed for the hearing.

"(c) Public Hearing or Preliminary Resolution. At the time for the public hearing, or at some subsequent time to which such hearing shall be adjourned, the governing body shall consider such objections to the legality of the making of the improvement or improvements as have been made in compliance with paragraph (b) (5) of subsection 7.1 of this Act, together with such objections as may be made to the policy or expediency of the making of the improvement or improvements; and the governing body shall thereafter determine whether it will order the makings of said improvement or improvements. Any objection against the legality of the making of the improvement or improvements not made in writing, signed in person or by attorney, and filed with the clerk of the municipality at or before the time or adjourned time of such hearing shall be considered as waived; and if any such objection shall be made and shall not be sustained by the governing body, the adoption of the resolution ordering the making of the improvement or improvements as provided in the next following Section, shall be the final adjudication of the issues presented, unless within ten days after the adoption of such resolution proper steps shall be taken in a court of competent jurisdiction to secure relief.

"(d) Resolution Ordering Improvements; Procedure. After public hearing, if the governing body determines to make the improvement or improvements proposed, it shall adopt a resolution to such effect and except as herein otherwise provided, follow the general law and procedure as is set forth in Article 9, Chapter 160 of the General Statutes.

"Section 7.2. Any and all acts heretofore done and steps taken by the governing body of the town of Denton in the paving of streets or other local improvements in said town and the assessments levied therefor are hereby in all respects approved and validated.

"ARTICLE VIII. ISSUANCE OF WARRANTS

"Section 8.1. Personnel Authorized.

"(a) The chief of police, the assistant chief of police, the police captains, the lieutenants in charge of each work shift and desk sergeants, when on duty, shall have the power and authority to issue warrants for the arrest of all persons charged with the commission of offenses. Such warrants shall be issued only upon the affidavit made as now required by law, and when issued shall be served by some peace officer or policeman other than the officer who issued the warrant.

"ARTICLE IX. FINANCE

"Section 9.1. 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. Such institution 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 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.

"Section 9.2. Issuance of Bonds. The town may issue bonds for the purposes and in the manner prescribed by the General Statutes of North Carolina relating to the issuance of bonds by municipalities.

"Section 9.3. Purchases and Contracts. Purchases of apparatus, supplies, material and equipment, and contracts for constructions or repair work shall be made in accordance with the General Statutes of North Carolina relating thereto.

"Section 9.4. 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 town government by a certified public accountant or a qualified public accountant registered under Chapter 93 of the General Statutes of North Carolina, 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 X. CLAIMS AGAINST THE TOWN

"Section 10.1. Title to Properties Used for Certain Purposes. In the absence of any contracts with the town in relation to the lands used or occupied by it for the purposes of streets, sidewalks, alleys, or other public works of the town signed by the owner thereof or his agent, it shall be conclusively presumed that said land has been granted to the town by the owner or owners, and the town shall have good right and title thereto and shall have, hold, and enjoy the same. Unless the owner or owners of said land, or those claiming under them, shall make claim or demand in writing addressed to the board of commissioners within two years following the date when such land was taken, he or

they shall be forever barred from recovering such land or having any compensation therefor; provided, nothing herein shall affect the rights of persons under disabilities until two years following removal thereof.

"Section 10.2. Tort Claims. All claims or demands against the town arising in tort shall be presented to the board of commissioners in writing, signed by the claimant or his attorney or agent, within ninety days after such claim or demand is due or the cause of action accrues. No suit or action shall be brought on such a claim or demand within ten days or after the expiration of twelve months from the time such claim or demand is presented. Unless the said claim or demand is so presented within ninety days, and unless suit is brought within twelve months thereafter, any action thereon shall be barred."

Sec. 2. The purpose of this Act is to revise the Charter of the town of Denton and to consolidate into it certain acts concerning the property, affairs, and government of the town. It is intended to continue in force 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, or amendments thereto, even though such Acts or amendments are not expressly set forth herein:

- (a) Any Acts relating to the recorder's court of the town of Denton.
- (b) Any Acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or allegations of any kind.
- (c) Any Acts authorizing conveyance or sale of particular town property or interest therein.

Sec. 4. The following Acts having served the purposes for which enacted or having been consolidated into this Act are hereby repealed:

- (a) N. C. Session Laws, 1907, Chapter 490
- (b) N. C. Session Laws, 1911, Chapter 353
- (c) N. C. Session Laws, 1955, Chapter 1297
- (d) N. C. Session Laws, 1961, Chapter 225
- (e) N. C. Session Laws, 1963, Chapter 771.

Sec. 5. The following Act, applying to more than one municipality, is repealed in its application to the town of Denton.

- (a) N. C. Session Laws, 1963, Chapter 836.

Sec. 6. (a) All existing ordinances and resolutions of the town of Denton, and all existing rules or regulations of departments or agencies of the town of Denton, 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 Denton or any of its departments or agencies shall be abated or otherwise affected by the adoption of this Act.

Sec. 7. If any provision of this Act or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, 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. 8. All ordinances, resolutions, actions, and proceedings of the board of commissioners of the town of Denton heretofore adopted, had and taken are hereby in all respects legalized, ratified, approved, validated, and confirmed.

Sec. 9. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict.

Sec. 10. 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 11th day of May, 1965.