

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 611
HOUSE BILL 869

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF
WRIGHTSVILLE BEACH.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Wrightsville Beach is revised and consolidated to read:

"The Charter of the Town of Wrightsville Beach.

"Article I.

"Incorporation, Corporate Powers and Boundaries.

"Section 1.1. **Incorporation.** The Town of Wrightsville Beach, North Carolina, in New Hanover County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Town of Wrightsville Beach', hereinafter at times referred to as the 'Town'.

"Sec. 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges and immunities conferred upon the Town of Wrightsville Beach specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Sec. 1.3. **Corporate limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the New Hanover County Register of Deeds and the appropriate board of elections.

"Article II.

"Governing Body.

"Sec. 2.1. **Mayor and Board of Aldermen.** The Mayor and Town Board of Aldermen, hereinafter referred to as the 'Board,' shall be the governing body of the Town.

"Sec. 2.2. **Board of Aldermen; composition; terms of office.** The Board shall be composed of four members elected by all the qualified voters of the Town for staggered terms of four years or until their successors are elected and qualified.

"Sec. 2.3. **Mayor; term of office; duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of two years or until his or her successor is elected and qualified; shall be the official head of the Town government and preside at

meetings of the Board; shall have the right to vote on all matters before the Board; and shall exercise the powers and duties conferred by law or as directed by the Board.

"Sec. 2.4. **Mayor Pro Tempore.** The Board shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the other members of the Board.

"Sec. 2.5. **Meetings.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Sec. 2.6. **Voting requirements; quorum.** Official actions of the Board and all votes shall be taken in accordance with applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Sec. 2.7. **Compensation; qualifications for office; vacancies.** The compensation and qualifications of the Mayor and Board members shall be in accordance with general law. Vacancies that occur in any elective office of the Town shall be filled by appointment as provided in G.S. 160A-63.

"Sec. 2.8. **Board of adjustment.** Notwithstanding the provisions of G.S. 160A-388, the Town Board shall serve as the Board of Adjustment and shall have and may exercise the same powers and duties as are granted by law to appointed boards of adjustment.

"Article III.

"Elections.

"Sec. 3.1. **Regular municipal elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections are conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Sec. 3.2. **Election of Board members.** The Board members serving on the date of ratification of this Charter shall serve until the expiration of their term or until their successors are elected and qualified. In the regular municipal election in 1989, and every four years thereafter, there shall be elected two Board members to serve as provided in Article II of this Charter. In the regular municipal election in 1991, and every four years thereafter, there shall be elected two Board members to serve as provided in Article II.

"Sec. 3.3. **Election of Mayor.** A Mayor shall be elected in each regular municipal election.

"Sec. 3.4. **Special elections and referendums.** Special elections and referendums may be held only as provided by this Charter, general law or applicable local acts of the General Assembly.

"Article IV.

"Organization and Administration.

"Sec. 4.1. **Form of government.** The Town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. **Town Manager.** The Board shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter.

"Sec. 4.3. **Town Clerk.** The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Board; to maintain official records and documents; to give notice of meetings; and to perform such other duties required by law or as the Town Manager may direct.

"Sec. 4.4. **Tax collector.** The Board shall appoint a Tax Collector pursuant to G.S. 105-349 to collect all taxes owed to the Town, subject to general law, this Charter and Town ordinances.

"Sec. 4.5. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials and perform other duties required by law or as the Board may direct.

"Sec. 4.6. **Other administrative officers and employees.** The Board may provide for appointment of other officers and employees by the Town Manager, and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Article V.

"Special Assessment Provisions.

"Sec. 5.1. Assessment for street improvements; petition unnecessary.

(a) In addition to any authority granted by general law, the Board is hereby authorized to order street improvements and to assess the costs thereof against abutting property in accordance with the provisions of this Article.

(b) The Board may order street improvements and assess the total costs thereof against abutting property, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes without the necessity of a petition, upon the following findings of fact:

- (1) That the street improvement project does not exceed 1,200 linear feet; and
- (2) That such street or part thereof is unsafe for vehicular traffic or creates a safety or health hazard and it is in the public interest to make such improvements; or
- (3) That it is in the public interest to connect two streets or portions of a street already improved; or
- (4) 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 a street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with street classification and improvement standards established by the Town, as applied to the particular street or part thereof.

(c) For the purposes of this Article, the term 'street improvement' includes grading, regrading, surfacing, resurfacing, widening, paving, repaving, acquisition of right-of-way and construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 5.2. **Assessments for sidewalk improvement; petition unnecessary.** In addition to any authority granted by general law, the Board is hereby authorized, without the necessity of petition, to order sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total costs thereof against abutting property, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes; provided that regardless of the assessment basis or bases employed, the Board may order the costs of sidewalk improvements made only on one side of a street to be assessed against property abutting both sides of such street.

"Sec. 5.3. **Procedure; effect of assessments.** In ordering street and sidewalk improvements without a petition and assessing the costs thereof under authority of this Article, the Board shall comply with the procedures required by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to petitions of property owners and sufficiency thereof. The effect of the act of levying assessments under authority of this Article shall be the same as if assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Article VI.

"Adoption of Ordinances by Initiative and Referendum.

"Sec. 6.1. **Initiative ordinances generally; petitions.** Any proposed ordinance, which the Board may lawfully adopt, may be submitted to the Board by petition signed by the voters of the Town. If the petition accompanying the proposed ordinance is signed by voters of the Town equal in number to at least thirty-five percent (35%) of the voters voting in the last preceding regular election and contains a request that such ordinance be submitted to a vote of the people if not passed by the Board, the Board shall either: (i) adopt the ordinance without alteration within 20 days after the Town Clerk and the New Hanover County Board of Elections have certified the sufficiency of the accompanying petition; or (ii) within 20 days after the Town Clerk and the New Hanover County Board of Elections have certified the sufficiency of the petition, the Board of Aldermen shall call a special election to be held within six months, unless a general election is fixed within six months thereafter. At such special or general election the ordinance shall be submitted without alteration to the voters of the Town.

"Sec. 6.2. **Form of ballots; passage of referendum; repeal or amendment.** The ballots used when voting upon such ordinances shall contain these words: 'For the ordinance' (stating the nature of the proposed ordinance) and 'Against the ordinance' (stating the nature of the proposed ordinance). If a majority of the qualified voters voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the Town. Any ordinance proposed by petition or which shall be adopted by the vote of the people may be repealed or amended by the Board; provided, however, that such ordinance may not be repealed or amended earlier than two years following the effective date of such ordinance.

"Sec. 6.3. **Number of ordinances on ballot; limitation on number of special elections.** Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this section, but there shall not be more than one special election in any period of six months for such purpose.

"Sec. 6.4. **Publication of notice of election.** Whenever any ordinance is required by this section to be submitted to voters of the Town at any election, the Town Clerk shall cause such ordinance to be published once in a newspaper published daily in New Hanover County. Such publication shall not be more than 20 nor less than five days before the date fixed for the special or general election.

"Sec. 6.5. **Sufficiency of petition.** The petition provided for herein shall be signed by none but legal voters of the Town. Each petition shall contain, in addition to the names of the petitioners, the street and house number at which each petitioner resides, and his or her age and length of residence in the Town. It shall also be accompanied by the affidavit of one or more legal voters of the Town, stating that the signers thereof were, at the time of the signing, legal voters of the Town, and stating the number of signers at the time the affidavit was made.

"Article VII.

"Additional Provisions.

"Sec. 7.1. **Development over water and anchorage of vessels.** The Town Board may regulate by ordinance development over and anchorage of vessels on estuarine waters and over lands covered by navigable waters and owned by the State pursuant to G.S. 146-12, that are within the zoning jurisdiction of the Town. In addition to the authority granted in G.S. 160A-381 concerning general zoning power, the Town may also regulate the location and use of floating homes.

"Sec. 7.2. **Ocean activities.** The Town Board may adopt ordinances to regulate and control swimming, surfing and littering in the Atlantic Ocean and other waterways adjacent to the Town and lying within its boundaries or within its extraterritorial jurisdiction established pursuant to G.S. 160A-360; provided, however, nothing contained herein shall be construed to permit the Town to prohibit altogether swimming and surfing or to make these activities unlawful.

"Sec. 7.3. **Fishing from bridges.** In addition to the authority granted municipalities in G.S. 160A-302.1, the Town Board is authorized to enact ordinances prohibiting or regulating fishing from any bridge for any purpose relating to public safety.

"Sec. 7.4. **Vehicles on beaches.** Notwithstanding the provisions of G.S. 160A-308, the Town Board is authorized to enact ordinances to regulate, restrict and prohibit the use of dune or beach buggies, jeeps, motorcycles, cars, trucks, or any other form of power-driven vehicle specified by the Board on the foreshore, beach strand and barrier dune system by commercial fishermen for commercial activities.

"Sec. 7.5. **Removal of trees.** The Town is authorized to enact ordinances to regulate the removal of trees from public and private property within its jurisdiction in order to preserve, protect and enhance one of the most valuable natural resources of the community and to protect and enhance the public health, safety and welfare of its citizens. Such ordinances by their terms may be made applicable to areas over which the Town is authorized to exercise extraterritorial jurisdiction pursuant to G.S. 160A-

360 subject to approval of any other local government units having jurisdiction over the extraterritorial areas to be regulated. The boundaries of any extraterritorial jurisdiction shall be designated utilizing the standards and procedures set forth in G.S. 160A-360 and may include areas under county or city/county jurisdiction with approval of the relevant governing body. Provided, however, that no ordinance enacted pursuant to this section shall apply to any agricultural land, forestland, or horticultural land as defined in G.S. 105-277.2.

"Sec. 7.6. **Building permits.** Notwithstanding the provisions of G.S. 160A-417 and Article 9 or 9C of Chapter 143 of the General Statutes, the Town Board may require permits (as provided by G.S. 160A-417 and Article 9 or 9C of Chapter 143 of the General Statutes) for any construction, installation, repair, replacement or alteration costing five thousand dollars (\$5,000) or less in any single family residence."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Wrightsville Beach and to consolidate 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 expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Sec. 3. This act does not repeal or affect any acts concerning the property, affairs or government of public schools, or acts validating official actions, proceedings, contracts or obligations of any kind.

Sec. 4. All local acts in conflict with this act are repealed. The following acts having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

- Chapter 305, Private Laws of 1899
- Chapter 355, Public Laws of 1903, as to Wrightsville Beach only
- Chapter 393, Private Laws of 1911
- Chapter 280, Public Laws of 1915
- Chapter 88, Private Laws of 1921
- Chapter 219, Private Laws of 1921
- Chapter 223, Private Laws of 1921
- Chapter 268, Public-Local Laws of 1923
- Chapter 159, Private Laws of 1925
- Chapter 196, Private Laws of 1927
- Chapter 227, Private Laws of 1933
- Chapter 493, Public-Local Laws of 1935
- Chapter 444, Public-Local Laws of 1937
- Chapter 655, Session Laws of 1943
- Chapter 284, Session Laws of 1947, as to Wrightsville Beach only
- Chapter 637, Session Laws of 1951
- Chapter 789, Session Laws of 1951
- Chapter 670, Session Laws of 1955
- Chapter 772, Session Laws of 1955
- Chapter 1302, Session Laws of 1959
- Chapter 417, Session Laws of 1969

Chapter 539, Session Laws of 1973, as to Wrightsville Beach only

Chapter 605, Session Laws of 1985

Chapter 786, Session Laws of 1987, as to Wrightsville Beach only.

Sec. 5. The Mayor and Aldermen serving on the date of ratification of this act shall serve until the expiration of their term. Thereafter, those offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

Sec. 6. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Sec. 7. All existing ordinances, resolutions and other provisions of the Town of Wrightsville Beach not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Sec. 8. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Sec. 9. If any provision or application of this act is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 10. Whenever a reference is made in this act to the particular provision of the General Statutes, and such provision is later amended, superseded or recodified, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is superseded or recodified.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of July, 1989.