

CHARTER

**GENERAL ASSEMBLY OF NORTH CAROLINA
1971 SESSION**

SENATE DRS10638

A BILL TO BE ENTITLED AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF CORNELIUS.

The General Assembly of North Carolina do enact:

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

“ARTICLE I. INCORPORATION AND CORPORATE POWERS

§ 1.1 INCORPORATION AND GENERAL POWERS.

The Town of Cornelius shall continue to be a body politic and corporate under the name and style of the “Town of Cornelius”, 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 or 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; and may pass all ordinances for the good government of the Town and for the promotion of the health, morals, and general welfare of the Town, not inconsistent with the Constitution and laws of the State of North Carolina and the United States of America.

(Sess. Laws 1971, Ch. 288)

§ 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 provisions, 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.

(Sess. Laws 1971, Ch. 288)

§ 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 Cornelius 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.

(Sess. Laws 1971, Ch. 288)

ARTICLE II. CORPORATE BOUNDARIES**§ 2.1 EXISTING CORPORATE BOUNDARIES.**

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

“Beginning at a point in the center line of North Carolina Highway No. 115, said point being on the dividing line between the Town of Cornelius, North Carolina and the Town of Davidson, North Carolina, and runs thence from said beginning point S. 2-34-20 W. 838.40 feet to a concrete monument; thence S. 87-25-40 E. 2400.00 feet to a concrete monument; thence S. 2-34-20 W. 6000.00 feet to a concrete monument; thence N. 87-25-40 W. crossing North Carolina Highway No. 115 and a concrete monument a total of 6400.00 feet to a point; thence N. 15-36-50 E. 1772.90 feet to a point; thence N. 2-34-40 E. crossing North Carolina Highway No. 73 a total of 4272.76 feet to a concrete monument; thence S. 87-25-40 E. 1080.00 feet to a point; thence N. 24-15-00 W. 1474.00 feet to a point; thence N. 71-51-45 E. 544.07 feet to a point; thence S. 24-26-30 E. 224.0 feet to a point; thence N. 83-18-30 E. 1392.00 feet to a concrete monument; thence S. 71-00-00 E. 1251.07 feet to a concrete monument; in the common dividing line between the Town of Cornelius and the Town of Davidson; thence S. 2-34-20 W. 340.36 feet to a point in the center line of the said North Carolina Highway No. 115, the point or place of beginning; All as shown on the plat or survey of the Corporate Limits of the Town of Cornelius, North Carolina, prepared by T.L. Brotherton, registered Surveyor, and dated August, 1962, together with a small triangular parcel of land lying adjacent thereto, as shown on a survey of T.L. Brotherton dated March 22, 1965.”

(Sess. Laws 1971, Ch. 288)

§ 2.1 EXTENSION OF CORPORATE BOUNDARIES.

All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

(Sess. Laws 1971, Ch. 288)

ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS**§ 3.1 COMPOSITION OF BOARD OF COMMISSIONERS.**

The Board of Commissioners shall consist of five members to be elected by the qualified voters of the Town voting at large in manner provided in Article IV.

(Sess. Laws 1971, Ch. 288)

§ 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 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 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.

(Sess. Laws 1971, DRS10638)

§ 3.3 TERMS; QUALIFICATIONS; VACANCIES.

(a) The Mayor shall serve for a term of two years and members of the Board of Commissioners shall serve for terms 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 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.

(b1) The Mayor and Commissioners shall be expected and required to attend all regular meetings of the Board of Commissioners except for occasional, unavoidable conflicts. However, the Mayor and Commissioners shall attend at least sixty percent (60%) of all regular Board meetings calculated on a rolling 12-month basis. Participation in a meeting by phone that has been approved pursuant to Board policy shall be counted as being absent under this section, although the participation may be considered as being in attendance for other purposes. Upon receipt of a complaint alleging a violation under this section, the Board shall call a hearing on the matter. The person to be proceeded against shall have at least 10 days' notice in writing of the motion to remove him, accompanied by a copy of the charges alleged as the grounds for the proposed removal. He shall have the right to be heard in person or by counsel in his defense. At the hearing, the Board may also hear from members of the public. Upon finding by a preponderance of the evidence that a violation has occurred, the Board may, by a majority vote, remove the Mayor or Commissioner from office or impose a lesser sanction, including censure or reprimand. The accused Mayor or Commissioner may vote in a proceeding only in the case of a tie.

(b2) The Mayor or a Commissioner shall not be considered absent from a regular meeting of the Board of Commissioners if the Mayor's or Commissioner's failure to attend is due to any of the following reasons:

- (1) Personal illness or the illness or death of an immediate family member (spouse, children, grandchildren, parents, grandparents, or siblings).
- (2) Military service.
- (3) Activities necessary to the performance of the official duties of the Mayor or Commissioner.

The burden shall be on the Mayor or Commissioner to present documentation in a hearing held pursuant to subsection (b1) of this section that supports an authorized reason for nonattendance.

(c) In the event a vacancy occurs in the office of Mayor or Commissioner, the Board of Commissioners shall appoint some qualified person to fill the same in accordance with G.S. § 160A-63.

(d) In the case of a conflict between this section and any other provision of this Charter, a Town ordinance, or other statute or common law, this section shall prevail to the extent of the conflict. (Sess. Laws 1971, Ch. 288; amended by Sess. Law 2005-188) (Am. Ord. 2002-00266, passed 8-19-02; Am. Ord. 2005-00330, passed 9-19-05)

§ 3.4 COMPENSATION OF MAYOR AND COMMISSIONERS.

The Mayor and members of the Board of Commissioners shall receive for their services such salaries as may be provided pursuant to law. (Sess. Laws 1971, Ch. 288)

§ 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 treat 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." (Sess. Laws 1971, Ch. 288)

§ 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 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. Provided: The Board may deliberate and vote in private on matters pertaining to personnel or property acquisition.
(Sess. Laws 1971, Ch. 288)

§ 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) Three affirmative votes, which may include the vote of the Mayor in case of equal division among the 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 those present and voting.
(Sess. Laws 1971, Ch. 288)

§ 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 clauses of all ordinances shall be: "Be it ordained by the Board of Commissioners of the Town of Cornelius". All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.
(Sess. Laws 1971, Ch. 288)

ARTICLE IV. ELECTION PROCEDURE

§ 4.1 REGULAR ELECTIONS.

Regular municipal elections shall be held on the first Tuesday in November of each odd-numbered year. Upon the expiration of the four-year terms of the Mayor and two (2) Commissioners in 2007, the positions of Mayor and two (2) members of the Board of Commissioners up for election in 2007 will be elected to two (2) year terms. Upon the expiration of the four year terms of the remaining three (3) Commissioners in 2009, the positions of three (3) members of the Board of Commissioners up for election in 2009 will be elected to two (2) year terms. In the regular 2009 election, the Mayor and five (5) members of the Board of Commissioners up for election receiving the highest number of votes shall be elected for two (2) year terms. The Mayor and five-member Board shall be elected by the qualified voters of the Town voting at large.
(Sess. Laws 1971, Ch. 288) (Am. Ord. 2002-00266, passed 8-19-02; Am. Ord. 2005-00330, passed 9-19-05)

§ 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 (60) days nor later than five o'clock p.m. on the third Friday preceding the election at which he offers his candidacy, shall be accompanied by payment of a filing fee to be determined by the Board by ordinance or resolution, but not to exceed

Twenty-Five Dollars (\$25), shall be signed in the presence of the City Clerk or his designee, and shall be substantially in the following form: "I, _____, do hereby give notice that I am a candidate for the 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 Cornelius, residing at _____.

Date _____

(Signature)
(Sess. Laws 1971, Ch. 288)

[§ 4.3 RESERVED.]

[§ 4.4 RESERVED.]

§ 4.5 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.
(Sess. Laws 1971, Ch. 288)

§ 4.6 VOTING.

In each election, each qualified voter shall be entitled to vote for one candidate for each office to be filled.
(Sess. Laws 1971, Ch. 288)

§ 4.7 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.
(Sess. Laws 1971, Ch. 288)

ARTICLE V. TOWN ATTORNEY

§ 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.
(Sess. Laws 1971, Ch. 288)

§ 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 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 by virtue of his position as Town Attorney. (Sess. Laws 1971, Ch. 288)

any two or more of the duties of safe keeping of Town Records, safe keeping of Town moneys, the collecting of Town moneys, and the duties of the Town Accountant under the office of any one or more persons, or may assign the functions to the holder or holders of any position. The Mayor may, with the approval of the Board of Commissioners, himself perform all or any of the functions listed in this article, in lieu of appointment of other persons to perform the same. (Sess. Laws 1971, Ch. 288)

ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

§ 6.1 TOWN CLERK AND TREASURER.

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 or Mayor may direct. The Town Treasurer shall be the custodian of all moneys of the Town and shall keep and preserve the same in such place or places as shall be determined by the Board of Commissioners. The Town Clerk shall 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. (Sess. Laws 1971, Ch. 288)

§ 6.2 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 [G.S. §§ 159-24 et seq.]. (Sess. Laws 1971, Ch. 288)

§ 6.3 CHANGE OF FUNCTIONS.

The Board of Commissioners may consolidate

§ 6.4 TOWN MANAGER.

[(a)] 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 [G.S. Chapter 160A, Article 7, Part 2]. The Board of Commissioners of the Town shall proceed to appoint a Town Manager under that Part to serve at the pleasure of the Board.

[(b)] The Town Manager shall be the administrative head of the Town government, and shall be responsible to the Board for the proper administration of all affairs of the Town. The Town Manager shall have all powers and duties provided by State law. The Town Manager shall appoint and may remove all Town employees except the Town Attorney. The Town Manager shall also perform such other duties as are prescribed by the Board.

[(c)] In case of conflict between this section and any provision of this Charter, or any ordinance or law inconsistent with this section, this section shall prevail to the extent of the conflict. Otherwise, this section does not amend any other provision of this Charter. (Sess. Laws 1991, Ch. 852)

Editor's note:

The 1991 Session Law cited above created the position of "Town Manager," so all references throughout this code to the former position of "Town Administrator" have been replaced by references to the Town Manager.

ARTICLE VII. FINANCE AND TAXATION.**§ 7.1 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 [G.S. §§ 159-24 et seq.].
(Sess. Laws 1971, Ch. 288)

§ 7.2 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 by a certified public accountant or a qualified public accountant registered under Chapter 93 of the General Statutes of North Carolina [G.S. Chapter 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.
(Sess. Laws 1971, Ch. 288)

ARTICLE VIII. DISPOSAL OF PROPERTY**§ 8.1 DISPOSAL OF SURPLUS REAL PROPERTY.**

Subject to the provisions of subsection (c) of this Section, the Mayor and Board of Commissioners shall have power, in addition to the power granted by

G.S. § 160-59, by their unanimous vote to dispose of any real property which the Board has declared to be surplus, in the following manner:

(a) without bids or advertisement, at private sale, if the property has a market value of not more than Ten Thousand Dollars (\$10,000); or at public auction, if so determined by the Board of Commissioners.

(b) without bids or advertisement, by exchange for real property of like or greater market value.

(c) no sale or exchange of real property authorized by this Section shall be ordered by the Mayor and Board of Commissioners unless they shall have caused to be published at least once in each of the two calendar weeks immediately preceding the vote authorizing such sale in a newspaper having general circulation in the Town a notice of their intention to consider such sale or exchange.
(Sess. Laws 1971, Ch. 288)

Editor's note:

The statute cited in this section has been repealed. The sale of property by a municipality is now regulated by G.S. §§ 160A-366 et seq.

§ 8.2 DISPOSAL OF SURPLUS PERSONAL PROPERTY.

The Board of Commissioners shall have power in addition to the power granted by G.S. § 160-59, to sell or to direct any of its officers or employees to sell any personal property, which the Board has declared to be surplus, in the following manner:

(a) without bids or advertisement, at private sale, if the property has a market value of Two Thousand Dollars (\$2,000), or less; or at public auction, if so determined by the Board of Commissioners;

(b) to the highest bidder upon receipt of informal written bids, with only such advertisement as the Board may direct, if the property has a market value of more than Two Thousand Dollars (\$2,000) but no more than Five Thousand Dollars (\$5,000);

provided, that such bids received shall be recorded on the minutes of the Board; or at public auction, if so determined by the Board;

(c) to the highest bidder upon receipt of sealed bids after one week's public notice, if the property has a market value in excess of Five Thousand Dollars (\$5,000); provided, all such sealed bid proposals shall be opened in public and recorded on the minutes of the Board; or at public auction, if so determined by the Board.

(Sess. Laws 1971, Ch. 288)

Editor's note:

The statute cited in this section has been repealed. The sale of property by a municipality is now regulated by G.S. §§ 160A-366 et seq.

ARTICLE IX. POLICE

§ 9.1 APPOINTMENT; QUALIFICATIONS; COMPENSATION.

The Board of Commissioners shall have the power to appoint a chief of police and one or more police officers, and prescribe the terms of their offices and their duties, and fix their salaries or compensations. These officers may be chosen from among the residents of the Town or from any other place, as the Board may deem best. The officers may execute all process and precepts issued to them, when properly directed, anywhere in the County of Mecklenburg, and the officers may be required by the Board of Commissioners to execute a bond, in a sum fixed by the Board, for the faithful performance of the duties of their office.

(Sess. Laws 1971, Ch. 288)

§ 9.2 JURISDICTION.

(a) The jurisdiction of the police force is hereby extended to include all territory outside and within one mile of the corporate limits, and all members of the police force shall have within such

territory all rights, power and authority as they have within the corporate limits.

(b) 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.

(Sess. Laws 1971, Ch. 288)

§ 9.3 EFFECT OF ORDINANCE 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.

(Sess. Laws 1971, Ch. 288)

ARTICLE X. REGULATORY POWERS

§ 10.1 SUBDIVISION REGULATIONS.

Notwithstanding the provisions of G.S. § 160-227, the Board of Commissioners is hereby authorized to adopt an ordinance regulating the subdivision of land in accordance with the provisions of G.S. §§ 160-226 through 160-227, inclusive. Such ordinance 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 requirement, the ordinance may require the posting of bond or such other method as will offer guarantee of compliance.

(Sess. Laws 1971, Ch. 288)

Editor's note:

The statutes cited in this section have been repealed. Municipal authority to enact subdivision regulations is now provided by G.S. §§ 160A-371 through 160A-376.

§ 10.2 REGULATORY CODES.

The Board of Commissioners is hereby authorized to make effective and to enforce within the Town and within the territory lying outside the corporate limits and within one mile thereof, but not within any other municipality, all ordinances and codes of the Town regulating the construction and repair of buildings, including building codes, plumbing codes, electrical codes, heating and air conditioning codes, fire prevention codes, minimum housing codes adopted pursuant to Article 15 of Chapter 160 of the General Statutes [G.S. Chapter 160, Article 15], and ordinances adopted pursuant to G.S. § 160-200(28) relating to unsafe buildings. In event the area within one mile of the Town is within one mile or more than one municipality, the jurisdiction of each such municipality shall terminate at a boundary line equidistant from the respective corporate limits of each such municipality. In addition, the Board of Commissioners is hereby authorized to enforce in such area the North Carolina State Building Code, the North Carolina State Plumbing Code, and the North Carolina Uniform Residential Building Code, all as published by the North Carolina Building Code Council. Such enforcement powers shall include the power to require that prior to the beginning of any construction, reconstruction, or alteration of any building or structure or any part or system thereof within such area, the appropriate permit or permits be obtained from the City [sic]; provided, that the Board of Commissioners may by ordinance require that the contractor or other person charged with such construction, reconstruction, or alteration secure such permit or permits, rather than requiring the owner of the property to do so.

The powers herein granted by this Section shall be exercised by the Town of Cornelius within the territory lying outside the corporate limits of the

Town and within one mile thereof only in the event that Mecklenburg County does not exercise such powers within the said territory.

(Sess. Laws 1971, Ch. 288)

Editor's note:

The statutes cited in this section have been repealed. Municipal authority to adopt regulatory ordinances by reference is now provided by G.S. § 160A-77. Municipal authority to condemn unsafe buildings is now provided by G.S. §§ 160A-426 et seq.

ARTICLE XI. BUSINESS AND TRADE

§ 11.1 BOARD OF COMMISSIONERS MAY LEVY LICENSE AND FRANCHISE TAXES.

That the Board of Commissioners may license and regulate all businesses or occupations whatsoever which in the opinion of the said Board of Commissioners should be proper subjects for police regulations. Any person, firm, or corporation desiring to engage in any business or occupation or to do any act upon which a special tax is imposed by the said Board of Commissioners shall before engaging therein obtain a license from the clerk of the said town; and any person engaging in any such business, trade, occupation, profession, etc., without first obtaining said license shall be guilty of an offense against the ordinances of the said town, and may be punished as provided therein. No license shall be issued for a longer period than one year, and no license shall be assignable, except by permission of the said Board of Commissioners.

(Sess. Laws 1971, Ch. 288)

ARTICLE XII. MUNICIPALLY-OWNED UTILITIES

§ 12.1 TOWN MAY OWN AND OPERATE ELECTRIC, GAS, WATER, AND SEWERAGE SYSTEMS AND MAKE REGULATIONS FOR SAID OPERATIONS.

The Town of Cornelius may buy, own, construct, establish, maintain and operate systems of electricity, gas, sewerage and water; and may make, regulate add establish public wells, cisterns, hydrants, reservoirs, pumping and filtering plants, pipe lines, sewerage disposal plants, stations and standpipes anywhere within the said town or beyond the limits thereof, for the use of said town, and may make such rules and regulations as it may deem proper for the management of the said water, gas, electric and sewer systems. The said town may require the owners, tenants or occupants of all property which may be located upon or near and street or alley along which may extend any municipal sewer or water system to connect with the said sewer and water systems, all waterclosets, bathrooms, privies, tubs, sinks or drains located upon their respective property or premises, and upon a failure to do so the owner, tenant or occupant of said property may be fined or imprisoned, as provided by ordinance of said town. The Board of Commissioners may appoint and employ a Director of Utilities and Public Works, whose duty it shall be to supervise the operation of any and all of the above systems and to supervise the maintenance of the streets and other public works carried on by the town.
(Sess. Laws 1971, Ch. 288)

ARTICLE XIII. CLAIMS AGAINST THE TOWN

§ 13.1 PRESENTATION OF CLAIMS; SUIT UPON CLAIMS.

(a) All claims or demands against the Town of Cornelius 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 days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within thirty days or after the expiration of twelve months from the time said claim or demand is so presented. Unless the claim or demand is so presented within ninety days after the cause of action accrues, and unless suit is brought within twelve months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town on account of damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejection of the Town therefrom, or 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 years after the happening or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the happening or the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity.
(Sess. Laws 1971, Ch. 288)

§ 13.2 SETTLEMENT OF CLAIMS BY BOARD OF COMMISSIONERS.

The Board of Commissioners may settle claims against the Town for personal injuries or damages to property or the taking of private property. Settlement of a claim by the Board of Commissioners pursuant to this Section shall constitute a complete release of the Town from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion, or taking complained of. All such settlements, and all such releases, shall be approved in advance by the Town Attorney.”
(Sess. Laws 1971, Ch. 288)

Sec. 2. The purpose of this Act is to revise the charter of the Town of Cornelius 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.

Sec. 3. This Act shall not be deemed to repeal, modify, or in any manner to affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Cornelius;

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

Sec. 4. All acts or portions of acts which compose the Charter of the Town of Cornelius, whether or not such acts, portions of acts, or amendments are expressly set forth herein, having served the purposes for which they were enacted, or having been consolidated into this Act, are hereby repealed.

Sec. 5. 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 provisions of law repealed by this Act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revised 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 effect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Cornelius, and all existing rules or regulations of departments or agencies of the Town of Cornelius, 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 Cornelius or any of its departments or agencies shall be abated or otherwise affected by the adoption of this Act.

Sec. 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.

Sec. 9. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 10. This Act shall be effective upon its ratification.

LOCAL ACTS

**GENERAL ASSEMBLY OF
NORTH CAROLINA
1971 SESSION
RATIFIED BILL**

CHAPTER 499

HOUSE BILL 930

**AN ACT TO AMEND G.S. [§] 105-345, FIXING
DISCOUNTS FOR PAYMENT OF TAXES IN
THE TOWN OF CORNELIUS.**

The General Assembly of North Carolina do enact:

Section 1. Chapter 844 of the Session Laws of 1959 is repealed.

Section 2. G.S. [§] 105-345(a) is hereby amended by adding the following subsection at the end thereof:

“However, subsections (1), (2) and (6) hereof shall not apply to taxes levied by the Town of Cornelius, and should any taxpayer of the Town of Cornelius make payment of his taxes before the 31st day of December following the levy of such taxes, he shall be entitled to a discount of one per cent. If paid after the 1st day of January and on or before the 1st day of February, such taxes shall be payable at par or face value.”

Section 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1971.

H.P. Taylor, Jr. /s/
President of the Senate

Philip P. Godwin /s/
Speaker of the House of Representatives

**GENERAL ASSEMBLY OF
NORTH CAROLINA
SESSION 1991
RATIFIED BILL**

CHAPTER 884

SENATE BILL 1165

**AN ACT TO AUTHORIZE THE TOWNS OF
CORNELIUS AND DAVIDSON IN
MECKLENBURG COUNTY TO REGULATE IN
CERTAIN EXTRATERRITORIAL AREAS.**

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding Section 12 of Chapter 860 of the 1971 Session Laws, as amended by Chapter 966 of the 1983 Session Laws (Regular Session 1984), the Towns of Cornelius and Davidson may exercise the powers granted by Article 19 of Chapter 160A of the General Statutes [G.S. Chapter 160A, Article 19] within extraterritorial areas in Mecklenburg County not to exceed one mile of their respective corporate limits, subject to the limitations set forth in this act.

Section 2. Any exercise of the authority granted by this act shall be accomplished in accordance with G.S. [§] 160A-360, except that no approval from Mecklenburg County is required prior to such exercise.

Section 3. This act authorizes the exercise of extraterritorial jurisdiction only in those areas that may be annexed by each town, as set forth in and referred to as the “Sphere of Influence” in annexation agreements entered into by the towns of Cornelius, Davidson, and Huntersville. The area in which the extraterritorial jurisdiction authorized by this act is to be exercised shall be specifically identified in an ordinance as required by G.S. [§] 160A-360, and may be changed from time to time in the same manner, in

accordance with the above-referenced agreement, modifications thereof, or future agreements or changed circumstances delineating area in which the town may annex.

Section 4. This act is effective upon ratification.

In the general Assembly read three times and ratified this the 8th day of the July, 1992.

James C. Gardner /s/
President of the Senate

Daniel Blue, Jr. /s/
Speaker of the House of Representatives

**GENERAL ASSEMBLY OF
NORTH CAROLINA
SESSION 1991
RATIFIED BILL**

CHAPTER 852

HOUSE BILL 1522

AN ACT TO PROVIDE THE COUNCIL-MANAGER FORM OF GOVERNMENT IN THE TOWN OF CORNELIUS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Cornelius, being Chapter 288, Session Laws of 1971, is amended by adding the following new section to read:

"Sec. 6.4. Town Manager. 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. The Board of Commissioners of the Town shall proceed to appoint a Town Manager under that Part to serve at the pleasure of the Board.

The Town Manager shall be the administrative head of the Town government, and shall be responsible to the Board for the proper administration of all affairs of the Town. The Town Manager shall have all powers and duties provided by State law.

The Town Manager shall appoint and may remove all Town employees except the Town Attorney. The Town Manager shall also perform such other duties as are prescribed by the Board.

In case of conflict between this section and any provision of this Charter, or any ordinance or law inconsistent with this section, this section shall prevail to the extent of the conflict. Otherwise, this section does not amend any other provision of this Charter."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of July, 1992.

James C. Gardner /s/
President of the Senate

Daniel Blue, Jr. /s/
Speaker of the House of Representatives

**GENERAL ASSEMBLY OF
NORTH CAROLINA
SESSION 2005**

SESSION LAW 2005-188

SENATE BILL 335

AN ACT AMENDING THE CHARTER OF THE TOWN OF CORNELIUS TO ALLOW THE BOARD OF COMMISSIONERS TO REMOVE MEMBERS FOR CAUSE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.3 of the Charter of the Town of Cornelius, being Chapter 288 of the 1971 Session Laws, as amended by Town Ordinance No. 2002-00266, adopted pursuant to G.S. 160A-101, reads as rewritten:

"Sec. 3.3. Terms; Qualifications; Vacancies.
(a) The Mayor shall serve for a term of four years and members of the Board of Commissioners shall serve for terms of four years, beginning the day and hour of the organizational meeting following their election, as

established by ordinance in accordance with this Charter. The Mayor and Commissioners shall serve until: (i) their successors are elected and qualified; (ii) they resign; (iii) they become ineligible to hold office; or (iv) they are removed from office in accordance with subsection (b1) of this section.

(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.

(b1) The Mayor and Commissioners shall be expected and required to attend all regular meetings of the Board of Commissioners except for occasional, unavoidable conflicts. However, the Mayor and Commissioners shall attend at least sixty percent (60%) of all regular Board meetings calculated on a rolling 12-month basis. Participation in a meeting by phone that has been approved pursuant to Board policy shall be counted as being absent under this section, although the participation may be considered as being in attendance for other purposes. Upon receipt of a complaint alleging a violation under this section, the Board shall call a hearing on the matter. The person to be proceeded against shall have at least 10 days' notice in writing of the motion to remove him, accompanied by a copy of the charges alleged as the grounds for the proposed removal. He shall have the right to be heard in person or by counsel in his defense. At the hearing, the Board may also hear from members of the public. Upon finding by a preponderance of the evidence that a violation has occurred, the Board may, by a majority vote, remove the Mayor or Commissioner from office or impose a lesser sanction, including censure or reprimand. The accused Mayor or Commissioner may vote in a proceeding only in the case of a tie.

(b2) The Mayor or a Commissioner shall not be considered absent from a regular meeting of the Board of Commissioners if the Mayor's or Commissioner's failure to attend is due to any of the following reasons:

(1) Personal illness or the illness or death of an immediate family member (spouse, children, grandchildren, parents, grandparents, or siblings).

(2) Military service.

(3) Activities necessary to the performance of the official duties of the Mayor or Commissioner.

The burden shall be on the Mayor or Commissioner to present documentation in a hearing held pursuant to subsection (b1) of this section that supports an authorized reason for nonattendance.

(c) In the event a vacancy occurs in the office of Mayor or Commissioner, the Board of Commissioners shall appoint some qualified person to fill the same in accordance with G.S. 160A-63.

(d) In the case of a conflict between this section and any other provision of this Charter, a Town ordinance, or other statute or common law, this section shall prevail to the extent of the conflict."

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

In the General Assembly read three times and ratified this the 13th day of July, 2005.

/s/ Beverly E. Perdue
President of the Senate

/s/ James B. Black
Speaker of the House of Representatives

