

**BOILING SPRINGS, NORTH CAROLINA
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CHARTER

Editor's note:

The town is in the process of revising the following charter. Much of the following charter material is now statutorily obsolete; therefore, we have inserted this charter for historical purposes only.

The Charter of the Town of Boiling Springs is revised and consolidated to read:

THE TOWN OF BOILING SPRINGS

CORPORATE POWERS

Section 1. Incorporation and Corporate Powers.

The inhabitants of the Town of Boiling Springs, North Carolina, within the boundaries as established in Section 2 of this charter or as hereafter established in the manner provided by law, shall continue to be a body politic and corporate by the name the Town of Boiling Springs and under that name shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property within or without its boundaries for any municipal purpose, in fee simple or less interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage and control the property as its interests may require; and, except as prohibited by the Constitution of North Carolina or restricted by this charter, the Town of Boiling Springs shall have and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

Section 2. Corporate Limits.

The corporate limits of the Town of Boiling Springs shall be and remain the same as they are at the present time, and as described in Section 2 of the original charter of the Town of Boiling Springs and as ratified by the General Assembly on March 3, 1911.

BOARD OF COMMISSIONERS

Section 3. Creation, Salary and Composition of Mayor and Board of Commissioners.

Except as other wise provided in this Charter, all powers of the town shall be rested in a Board of Commissioners of five members and a Mayor nominated and elected from the town at large in the manner hereinafter provided. The term of office of the Mayor shall be for four years and until his

successor is elected and qualified. The members of the Board of Commissioners shall serve for a term of four years provided that at the election to be held in May, 1953, that the two Commissioners receiving the largest number of votes shall serve for four years, and the other three members of the Board of Commissioners so elected shall serve for a term of two years. Thereafter, all members of the Board of Commissioners duly elected shall serve for a term of four years, or until their successors are duly elected and qualified. The term of office of the Mayor and members of the Board of Commissioners shall begin on the first Monday of June next following their election. If a vacancy occurs in the office of Mayor or Board of Commissioners it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the Board of Commissioners. The Mayor and each member of the Board of Commissioners shall receive a salary, the amount of which shall be prescribed by ordinance: Provided, however, that the present Mayor and members of the Board of Commissioners shall continue to receive the same salary until the same is changed as herein outlined. No ordinance fixing or changing the salary of members of the Board of Commissioners shall become effective during the current term of office of the members of the Board of Commissioners enacting the ordinance. Members of the Board of Commissioners shall be qualified electors of the town. A member of the Board of Commissioners ceasing to possess any of the qualifications specified in this section, or convicted of a crime while in office, shall immediately forfeit his office.

Section 4. Meetings of the Board of Commissioners.

On the first Monday in June next following a regular municipal election the Board of Commissioners shall meet at the usual place for holding its meetings and the newly elected members shall assume the duties of office. Thereafter the Board of Commissioners shall meet at times as may be prescribed by ordinance or resolution, but not less frequently than once each month. Special meetings shall be called by the Mayor or by the Clerk upon the written request of at least three members of the Board of Commissioners.

Section 5. Mayor and Mayor Pro Tem.

At the first meeting in the month of June, following a regular municipal election, the new Board of Commissioners shall choose one of its members as Vice Chairman, who shall act as Mayor Pro Tem. The Mayor shall preside at meetings of the Board of Commissioners and shall exercise other powers and perform other duties as are or may be conferred and imposed upon him by the general laws of North Carolina, by this charter and the ordinances of the town. In case of the absence or disability of the Mayor, the Mayor Pro Tem shall act as Mayor during the continuance of the absence or disability.

Section 6. Board of Commissioners Rules.

The Board of Commissioners shall be the judge of the election and qualifications of its members and the Mayor, and in cases shall have power to subpoena witnesses and compel the production of all pertinent books, records, and papers; but the decision of the Board of Commissioners in any case shall be subject to review by the courts. The Board of Commissioners shall determine its own rules and order of business and keep a journal of its proceedings.

Section 7. Introduction and Passage of Ordinances and Resolutions.

All ordinances, except ordinances making appropriations and ordinances codifying or rearranging existing ordinances or enacting a code of ordinances, shall be confined to one subject, and the subject or subjects of all ordinances shall be clearly expressed in the title. Ordinances making appropriations shall be confined to the subject of appropriations. The yeas and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Board of Commissioners. The enacting clause of all ordinances shall be: ABe it ordained by the Town of Boiling Springs.@ All ordinances and resolutions passed by the Board of Commissioners shall take effect at the time indicated therein.

Section 8. Authentication and Publication of Ordinances and Resolutions.

Upon its final passage each ordinance or resolution shall be authenticated by the signature of the Mayor and the Town Clerk and shall be recorded in a book kept for that purpose. Within ten days after final passage, a notice setting forth in brief the substance of each ordinance shall be published or posted at least once in the manner as the Board of Commissioners may prescribe.

NOMINATIONS AND ELECTIONS

Section 9.

For the purpose of electing a Mayor, the several Commissioners and all other elective officers of the Town of Boiling Springs, there shall be held in the town, on Tuesday after the first Monday in May, 1953, and biennially thereafter, a municipal election.

Section 10.

Any qualified voter of the Town of Boiling Springs, who desires to become a candidate for the office of Mayor or Town Commissioner, shall file a notice of his candidacy, together with a filing fee of \$2 with the Town Clerk not less than 15 days before the general municipal election date. No person's name shall be placed upon the general municipal election ballot unless he has complied with the conditions herein set out. Each qualified elector, who desires to become a candidate for Mayor or Commissioner shall file with the Town Clerk a statement of the candidacy, in substantially the following form, which shall be furnished by the Town Clerk:

State of North Carolina
County of Cleveland

I, _____, hereby certify that I have been a resident of North Carolina for at least 12 months preceding the date of the election set out below, and that I have been a resident of the Town of Boiling Springs for at least four months preceding this date, and that I qualified in all of the respects as a candidate for municipal office.

I hereby give notice that I am a candidate for the office of Mayor, Commissioner, (strike out one) to be voted upon in the municipal election for the Town of Boiling Springs, to be held on Tuesday, the

day of May, 19__.

I hereby request that my name be printed on the official ballot as a candidate for office of Mayor, Commissioner, (strike out one).

_____ (Signed)

_____ (Address)

Any candidate may withdraw his statement of candidacy not later than the last day for filing the statements, as required by this charter.

Section 11.

The election shall be conducted as far as practicable in all things and in all details in accordance with the general election laws of the state pertaining to municipal elections, unless otherwise provided by this Act, now in force or hereafter enacted.

Section 12.

There shall be but one voting precinct for the election of town officials in the town of Boiling Springs, but the Board of Commissioners, by unanimous vote, may increase the number of precincts. The place of the precinct for the election of town officials shall be designated by the Board of Commissioners.

Section 13.

All candidates, up to the number to be elected, who receive the largest number of votes shall be declared elected, their terms of office to be in accordance with Section 2.1 of this charter.

ADMINISTRATIVE SERVICE

Section 14. Appointment of Officers and Employees.

The Board of Commissioners may appoint a Town Clerk, a Treasurer, a Tax Collector, an Accountant, a Town Attorney, a Chief of Police, a Fire Chief, and other officers and employees as may be necessary, none of whom need be a resident of the town at the time of appointment: Provided, that the Board of Commissioners may appoint one person to fill any two or more positions. The employees or officers shall serve at the pleasure of the Board of Commissioners and shall perform duties as may be prescribed by the Board of Commissioners. The Board of Commissioners shall fix all salaries, prescribe bonds and require oaths as they may deem necessary.

Section 15. Town Clerk.

The Board of Commissioners shall choose a Town Clerk. The Town Clerk shall keep the records

of the Board of Commissioners and perform other duties as may be required by law of the Board of Commissioners.

Section 16. Duties of Town Tax Collector.

Tax Collector shall collect all taxes, licenses, fees, and other moneys belonging to the town government, subject to the provisions of this charter and ordinances enacted thereunder, and he shall diligently comply with and enforce the general laws of North Carolina relating to the collection, sale and foreclosure of taxes by municipalities. It shall be the duty of the Tax Collector to deposit daily in the town depository all moneys belonging to the town.

Section 17. Independent Audit.

As soon as practicable after the close of each fiscal year, an independent audit shall be made of all accounts of the town government by qualified public accountants, selected by the Board of Commissioners, who have no personal interest directly or indirectly in the financial affairs of the town government or of any of its officers. The results of this audit shall be published immediately upon completion.

MISCELLANEOUS PROVISIONS

Section 18. Oath of Office.

Every officer of the town shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Town Clerk:

AI solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of North Carolina, that I will, in all respects, observe the provisions of the charter and ordinances of the Town of Boiling Springs and will faithfully discharge the duties of the office of _____@

Section 19. Continuance of Contracts.

All contracts entered into and franchises granted by the town, or for its benefit, prior to the taking effect of this charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or charter provisions existing at the time this charter takes effect may be carried to completion in accordance with the provisions of the existing laws and charter provisions.

Section 20.

The Mayor and members of the Board of Commissioners holding office at the time of the ratification of this Act shall continue to hold office until their successors are elected and qualified.

Section 21.

If any part of this charter shall be declared invalid by a court of competent jurisdiction, the judgment shall not invalidate the remainder of the charter. The provisions of this charter shall supersede all laws and ordinances not consistent herewith, in so far as the Town of Boiling Springs is affected thereby.

Section 22.

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

Section 23.

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

SPECIAL ACTS

HOUSE BILL 1798

SENATE BILL 473

Section 1.

That the town of Boiling Springs in Cleveland County, North Carolina, be and the same is hereby incorporated by the name and style of Athe town of Boiling Springs@ and shall be subject to all the provisions of chapter 73, volume one of the Revisal of one thousand nine hundred and five [1905] of North Carolina, not inconsistent with this act.

Section 2.

That the corporate limits of the town shall include a radius of one mile from the center of the Boiling Springs High School building.

Section 3.

That the officers of the town shall consist of a mayor, five aldermen and a marshal, and the following named persons shall fill said offices until the first Monday in May, one thousand nine hundred and eleven, viz: Mayor, D.J. Hamrick, aldermen, John F. Moore, D.S. Lovelace, J.L. Pruett, C.M. Hamrick, E.B. Hamrick, marshal, J. Lester Green, and the aldermen shall have the power to appoint a clerk and treasurer.

Section 4.

There shall be an election for officers mentioned in this act, on the first Monday in May, one thousand nine hundred and eleven, and biennially thereafter, under the same restrictions that now govern the election of members of the General Assembly, except as modified by the provisions of chapter 73, volume one of the Revisal of one thousand nine hundred and five [1905].

Section 5.

That the mayor, aldermen and marshal shall form a council which shall make, publish and enforce ordinances for the government and police regulations of the town not inconsistent with the laws of North Carolina or of the United States. Provided that nothing contained in this act shall be construed to repeal or modify chapter 294, public acts of one thousand nine hundred and eleven [1911], entitled AAn act to prohibit the sale of whiskey, brandy, cider and cigarettes within three miles of Boiling Springs High School and Boiling Springs Baptist Church in Cleveland County.

Section 6.

That this act shall not in any way change or modify the system or working and building public roads that enter or pass through the corporate limits of the town. That the roads or streets shall remain under the supervision of the road supervisor of number two township, in Cleveland County, and shall be worked under the same rules and regulations that govern the building and working of other roads in the township, and that the residents of the town shall be subject to the same liabilities for road taxes and duties as apply to other citizens of the township. Provided, the town council may open up and make necessary provisions for working the additional streets within the corporate limits of the town, as may be to the best interests of the citizens thereof.

Section 7.

It shall be the duty of the marshal of the town to see that the laws, ordinances, regulations and orders of the town council are enforced, and, to report all breaches thereof to the mayor of the town, to preserve the peace and order of the town by suppressing disturbances, and apprehending offenders for which purpose he shall have all the power and authority vested in sheriffs or constables; execute all criminal and civil processes and precepts, and notices of every character lawfully directed to him by the mayor of the town; or the town council thereof, or other officers of the county, and in the execution thereof he shall have the same powers anywhere in the county of Cleveland as the sheriff or a constable has or may hereafter have. The marshal shall have the same power to apprehend in the limits of the town or county of Cleveland all offenders against the state as the sheriff of the county has, and to carry the offenders before the mayor of the town, and in this respect he shall be bound by the same rules as the constables of the county. It shall also be the duty of the marshal to perform other acts and exercise the other functions as shall be from time to time be directed or required of him by the town council. He shall be the tax collector for the town, and his duties shall from time to time be prescribed by the town council or as provided by law. He shall receive as a compensation for his services in collecting taxes, the per centum of all taxes actually collected by him as may be fixed by the town council, not to exceed five per centum thereof, and shall retain same out of taxes collected by him as often as he shall make settlement thereof with the aldermen, and for his services in discharging any other duties, the compensation as shall, from time to time, be prescribed by the town council.

Section 8.

The duties of all other officers of the town shall be as are prescribed by law for the government of municipal corporations.

Section 9.

The council shall have a right to levy and collect a tax on all subjects of state taxation, not to exceed \$.33 and one-third cents on each \$100 worth of property, and \$1 on each poll.

Section 10.

That all taxes and all fines collected for the violation of any town ordinance shall go into the town treasury for the benefit of the town.

Section 11.

That any person found guilty by the mayor of violating any ordinance of the town, who refuses to pay the fine or penalty as shall be imposed by the mayor, shall be sentenced to work on the streets of the town at a rate per diem to be fixed by the council until the fine shall have been paid.

Section 12.

That no ordinance shall be valid or of force until it shall have been publicly posted in three or more public places in the town for ten days.

