

Charter

**CHARTER OF THE TOWN OF  
WOODFIN, NORTH CAROLINA**

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***CHARTER 271  
HOUSE BILL 228***

***AN ACT TO INCORPORATE THE TOWN OF WOODFIN, IN BUNCOMBE COUNTY.***

The General Assembly of North Carolina do enact:

**SECTION 1. [ELECTION CONCERNING INCORPORATION].**

The Board of Elections of Buncombe County shall conduct a special election on Tuesday, June 29, 1971, for the purpose of submitting to the qualified voters of the area hereinafter described as the proposed corporate limits of the Town of Woodfin the question whether or not such area shall be incorporated as a municipal corporation known as the Town of Woodfin, and to elect the members of the governing body if said area is incorporated. On such day, the polls shall be open from 6:30 a.m., until 6:30 p.m. The said Board of Elections from Buncombe County in conducting the election required to be held herein shall follow the procedure as outlined in this Act and the General Statutes of North Carolina relating to municipal elections where not in conflict with this Act.

(Sess. Laws 1971, Ch. 271, § 1)

**SECTION 2. [REGISTRATION OF VOTERS].**

A new registration of all qualified voters in the described area shall be conducted for the purpose of registering the names of those who desire to vote in such special election. The registration book for such new registration shall be open from 7:00 a.m., to 6:00 p.m., the first three Saturdays in June in accordance with posted notice. Saturday, June 26, 1971, shall be challenge day.

(Sess. Laws 1971, Ch. 271, § 2)

**SECTION 3. [REGISTRAR AND ELECTION JUDGES].**

The Buncombe County Board of Elections shall, not later than Monday, May 17, 1971, appoint a registrar and two judges of election, and designate a polling place for the special election.

(Sess. Laws 1971, Ch. 271, § 3)

**SECTION 4. [NOTICE].**

Not later than Friday, May 21, 1971, the Buncombe County Board of Elections shall cause to be posed at the Woodfin School, Buncombe County Courthouse and the Woodfin Community Center and Fire Station and at such other public places as the Board may choose, a notice stating the time, the polling place, and the purpose of the special election; the names of the registrar and the judges of elections; the dates, hours, and place or places of registration; the date, time and place for challenges; that the registration is a complete new registration for the special election; and that candidates for election to the Town Board of Aldermen must file with the Board notice of candidacy not earlier than Monday, May 17, 1971, and not later than 5:00 p.m., on Friday, June 4, 1971. The Board of Elections may, in its discretion, also cause such notice to be published one or more times in a newspaper having general circulation in the Woodfin community.

(Sess. Laws 1971, Ch. 271 § 4)

**SECTION 5. [CANDIDATES FOR ALDERMAN].**

Any qualified voter who would offer himself as a candidate for Alderman in such election shall file with the Chairman or Clerk of Board of Elections of Buncombe County a written statement giving notice of his candidacy. Such notice shall be filed not earlier than Monday, May 17, 1971, and not later than 5:00 p.m. on Friday, June 4, 1971, and shall be substantially in the following form: "I \_\_\_\_\_ do hereby give notice that I am a candidate for election to the Office of Alderman, Town of Woodfin, to be voted on at the election to be held on Tuesday, June 28, 1971, and I hereby request that my name be placed on the official

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ballot for such office. I certify that I am a resident and qualified voter of the Town of Woodfin, residing at: \_\_\_\_\_”.

(Signature) \_\_\_\_\_

(Date) \_\_\_\_\_

Witness: \_\_\_\_\_  
(Sess. Laws 1971, Ch. 271, § 5)

### **SECTION 6. [BALLOTS].**

In the special election, those voters who favor the incorporation of the Town of Woodfin as provided in this Act shall vote a ballot upon which shall be printed the words: “**FOR** Incorporation of Town of Woodfin,” and those voters who are opposed to the incorporation of the Town of Woodfin as provided in this Act shall vote a ballot upon which shall be printed the words: “**AGAINST** Incorporation of Town of Woodfin.”  
(Sess. Law 1971, Ch. 271, § 6)

### **SECTION 7. [VOTING FOR ALDERMAN].**

Also in the special election, each qualified registered voter shall be entitled to vote for seven (7) candidates for Alderman upon a ballot on which shall be listed, in alphabetical order, the names of all persons who filed notice of candidacy with the Board of Elections during the period hereinabove established.  
(Sess. Laws 1971, Ch. 271, § 7)

### **SECTION 8. [AGAINST INCORPORATION OF TOWN].**

If a majority of the votes cast in the special election shall be cast “**AGAINST** Incorporation of Town of Woodfin,” then Sections 10 through 13 of this act shall have no force and effect.  
(Sess. Laws 1971, Ch. 271, § 8)

### **SECTION 9. [FOR INCORPORATION OF TOWN].**

If a majority of the votes case in the special election shall be cast “**FOR** Incorporation of Town of Woodfin,” then sections 10 through 13 of this Act shall be in full force and effect from and after June 28, 1971.  
(Sess. Laws 1971, Ch. 271, § 9)

### **SECTION 10. [TERMS FOR CANDIDATES].**

In the special election, the four (4) candidates receiving the highest number of votes shall be elected for terms of four (4) years and the other three (3) candidates receiving the next highest number of votes shall be elected for terms of two (2) years. In case of a tie between opposing candidates, the Board of Elections shall determine the result by lot.  
(Sess. Laws 1971, Ch. 271, § 10)

### **SECTION 11. [OATH OF OFFICE].**

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The Chairman of the Board of Elections shall notify the persons elected as Aldermen and shall designate some qualified officer to administer to them the oath of office, which shall be done as soon as practicable following their election.

(Sess. Laws 1971, Ch. 271, § 11)

### **SECTION 12. [CHARTER].**

The following provisions of law shall constitute the Charter of the Town of Woodfin, in Buncombe County:

#### ***THE CHARTER OF THE TOWN OF WOODFIN***

#### ***ARTICLE I. INCORPORATION AND CORPORATE POWERS***

##### **Section 1.1. Incorporation and General Powers.**

The inhabitants of the area described in Section 2.1 of this Charter shall be and constitute a body politic and corporate under the name of the Town of Woodfin, and shall be vested with all property which may be acquired by the Town, and all rights herein delegated to it; 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 to 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 Town Board 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 these appropriate to the exercise of such powers, the Town of Woodfin 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***

The corporate boundaries of the Town of Woodfin, until changed in accordance with law are as follows:

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BEGINNING at a point in the corporate line of the City of Asheville, and the northwest corner of Asheville By-Products property, in the center of French Broad River, said point being located 1,960.0 feet north of the center line of Pearson Bridge, and runs with the corporate line of the City of Asheville, and North line of said Asheville By-Products property, as extended by the North Carolina Legislature of 1959 as follows: South 76 deg. 00 min. East 450 feet to a point in the center of Riverside Drive; thence with the center of said Riverside Drive North 17 deg. 35 min. east 600 feet to a point in the centerline of the intersection of Riverside Drive and Broadway (N.C. 191); thence with the center of old Broadway South 74 Deg. 00 min. East 625 feet a point in the intersection of said old Broadway and Division Street; thence with the centerline of Division Street as it meanders 1,555 feet to the intersection of Thompson; thence with Thompson Street North 08 deg. 30 min. East 1,190 feet to a point in the centerline of Lookout Road; thence following the centerline of said Lookout Road as it meanders 1,932 feet to a point in said road and in a point o line to the corporate line of the City of Asheville; thence leaving Lookout Road North 17 deg. 15 min. east 875 feet to the top of Lookout Mountain; thence North 68 deg. 20 min. West 3,580 feet to a point in the centerline of the intersection of Burnsville Hill Road ( Also known as Elkwood Avenue) and Hickory Lane Road; thence with the centerline of Burnsville Hill Road as it meanders in a northerly direction 4,460 feet crossing Lakeshore Drive and following along and with the corporate line of the City of Asheville, to a point 300 feet south of the junction of Burnsville Hill Road and Merrimon Avenue ( U.S. 19-23); thence with the corporate limits of the City of Asheville passing Monument No. 20, North 37 deg. 35 min. East 5980 feet to a monument on top of Gooch's Peak, also known as Reynolds Mountain; thence South 75 deg. 30 min. West 3,300 feet to a point in the South margin of Hillcrest Street; thence following along the south margin of said Hillcrest Street as it meanders 2,530 feet to a point in the centerline and intersection of Merrimon Avenue (U.S. 19); said point also being the intersection of switch Street and Merrimon Avenue; thence following the south margin to Switch Street south 77 deg. 00 min. West 290 feet to a point in the Old Weaverville Highway; thence with the centerline of said Old Weaverville Highway as it meanders 2,590 feet to a point in said highway and the Northeast corner of the Asheville Manufacturing Company property; thence following the North line of the said Asheville Manufacturing Company property North 88 deg. 56 min. West 640 feet to the east margin of the north bound lane of the Weaverville By-Pass (U.S. 19); thence along with the east margin of said highway North 13 deg. 00 min. West 2,250 feet to a point in said margin, and being located south 46 deg. West 575 feet from the intersection of U.S. 19-23-25-70; thence South 46 deg. 00 min. West 6,475 feet to a point in the center of French Broad River, said point being 2,800 feet North of the centerline of Old Weaver Dam as it crosses the French Broad River; thence with the meanders of French Broad River in a Southerly and Easterly direction approximately 19, 360 feet to the point of BEGINNING.

### ***ARTICLE III. MAYOR AND BOARD OF ALDERMEN***

#### **Section 3.1. Mayor and Mayor Pro Tempore.**

The Mayor shall be elected for a four-year term by the qualified voters of the town. In a case of a refusal to qualify or a vacancy in the office of Mayor, the Board of Alderman shall appoint some qualified voter to be mayor for the remainder of the unexpired term. The mayor shall be the official head of the Town government and shall preside at all meetings of the Town Board. When 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 shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or maybe conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Town Board shall choose one of its numbers 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 office, but shall serve in such capacity at the please of the remaining members of the Board.

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(Am. Ord. passed 3-18-14)

### **Section 3.2. Composition of Town Board.**

The Town Board shall consist of six (6) members to be elected by and from the qualified voters of the Town voting at-large in the manner provided by Article IV.

### **Section 3.3. Terms; Qualifications; Vacancies.**

- (a) Except for the terms of office as specified in Section 10 of the act incorporating the Town of Woodfin, the members of the Town Board shall serve for terms of (4) years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.
- (b) No Person shall be eligible to be elected or appointed as a member of the Board of Alderman or as Mayor, unless he is a resident and qualified voter of the town.
- (c) If any elected Alderman shall refuse to qualify, or if there shall be any vacancy in the Office of Alderman after election and qualification, the remaining members of the Board shall by majority vote appoint some qualified person to serve for the unexpired term. Any Aldermen so appointed shall have the same authority and powers as if regularly elected.

### **Section 3.4. Compensation of Mayor and Aldermen.**

The Town Board may fix its own compensation and allowances, and the compensation and allowances of the Mayor, in such sums as may be just and reasonable, effective following the next regular municipal election for seats on the Town Board. The compensation and allowances of the Mayor shall not be reduced during the then current term of office. Any action taken under this section shall be published at least once in some newspaper having general circulation in Woodfin, as provided by North Carolina General Statutes 1-597 [G.S. § 1-597], and shall not be taken after 14 days before the deadline for filing notice of candidacy for the Town Board.

### **Section 3.5. Organization of Board; Oaths of Office.**

The Town Board shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board following each biennial election. Before entering upon their offices, the Mayor and each Alderman shall take, subscribed, and have entered upon the minutes of the Board the oath of office required by Article VI, section 7 of the Constitution.

### **Section 3.6. Meetings of Board.**

- (a) The Town Board shall fix by ordinance 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 Aldermen, 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 Town 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.



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### **Section 3.7. Quorum; Votes.**

- (a) A majority of the members elected to the Town board 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. The number required for a quorum shall not be affected by vacancies.
- (b) An affirmative vote equal to a majority of all the members of the Board of Alderman, (including the Mayor's vote in case of an equal division) shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted on shall be decided by a majority vote.

### **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 ayes and noes 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 Town Board of the Town of Woodfin." All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein, or unless some provision of the General Statutes provides otherwise.

## ***ARTICLE IV. ELECTION PROCEDURE.***

### **Section 4.1. Regular Municipal Elections.**

Regular municipal elections shall be held on the Tuesday after the first Monday in November of each odd numbered year, beginning in 1979.

### **Section 4.2. Filling of Candidacy.**

Filling of candidacy for the office of Alderman and the office of Mayor shall be as provided in Article 24 of Chapter 163 of the General Statutes [G.S. Ch.163, Art. 24].

### **Section 4.3. Regulation of Elections.**

Municipal elections shall be conducted in accordance with the provisions of Chapter 163 of the General Statutes [G.S. Ch. 163, Art. 24] except as otherwise herein provided.

### **Section 4.4 Officers to be Elected.**

- (a) At the regular municipal election in 2015, and quadrennially thereafter, a Mayor shall be elected for a four-year term.
- (b) At the regular municipal election in 1979, and quadrennially thereafter, three members of the Board of Alderman shall be elected for four-year terms.

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(c) At the regular municipal election in 1981, and quadrennially thereafter, three alderman shall be elected for four-year terms.  
(Am. Ord. passed 3-18-14)

### **Section 4.5. Conduct of Elections.**

Regular municipal elections shall be held in each odd numbered year in accordance with the uniform municipal election laws of North Carolina. Beginning in 1995, elections shall be conducted on a nonpartisan basis, using the “nonpartisan plurality election” method, as provided in North Carolina General Statute section 163-292. The mayor shall continue to be elected directly by the people and have all rights and responsibilities of a member of the board, including the right to vote on all issues before the board.  
(Ord. passed 2-21-95)

## ***ARTICLE V. TOWN ATTORNEY***

### **Section 5.1. Appointment; Qualifications; Term; Compensation.**

The Town Board 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 Town Board 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, Town Board, 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 all meetings of the Town Board when requested by the Board; 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 Town Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board 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 may direct.

### **Section 6.2. Town Tax Collector.**

The Town Board may appoint a Tax Collector to collect all taxes, licenses, fees and other monies belonging to the Town subject to the provision of this Charter and 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 Town Board 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.**

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The Town Board may, in its discretion, consolidate the functions of any two or more positions of Town Clerk, Town Tax collector, and Town Accountant, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions. The Board may also, in its discretion, designate a single employee to perform all or any part of the functions of any of the named positions, in lieu of appointing several persons to perform same.

### **Section 6.5. Other Employees.**

The Town Board may create and fill by appointment such other positions as it deems advisable to insure the efficient administration of Town's affairs, and may, in its discretion, appoint a person to supervise all Town departments and may delegate to much person the power of appointment and removal of department heads and employees, other than the Town Attorney.

## **ARTICLE VII. FINANCE.**

### **Section 7.1. Custody of Town Money.**

All monies received by the Town for and in connection with the business of the Town government shall be paid at least once weekly into the Town depository or when a sum of \$250.00 is collected, whichever comes first in accordance with the laws of the State of North Carolina. Such institution shall be designated by the Town Board 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 monies belonging to the Town shall accrue to the benefit of the Town. All monies belonging to the Town shall be disbursed only in accordance with the provisions of the Municipal Fiscal Control Act. (Am. Ord. passed 1-20-04)

### **Section 7.2. Issuance of Bonds.**

The Town may issue bonds for the purpose and in the manner prescribed by the General Statutes of North Carolina relating to the issuance of bonds by municipalities.

### **Section 7.3. Purchases and Contracts.**

Purchases of apparatus, supplies, materials, and equipment, and contracts for construction or repair work, shall be made in accordance with the General Statutes of North Carolina relating thereto.

### **Section 7.4. 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 [G.S. Ch. 93], who shall have no personal interest directly or indirectly in the affairs of the Town or of any of its officers. The Town Board 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 Town Board.

### **Section 7.5. Taxation.**

The territory within the corporate limits, and its citizens and property, shall be subject to municipal taxes levied by the Town for the fiscal year 1971-72 and subsequent years. The Town may obtain from Buncombe County, and the Buncombe County Tax Supervisor shall provide

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upon request a record of property within the corporate limits which was listed for taxation as of January 1, 1971.

### ARTICLE VIII. CLAIMS AGAINST THE TOWN

#### Section 8.1. Tort Claims

All claims or demands against the Town arising in tort shall be presented to the Town Board in writing, signed by the claimant or his attorney or agent, within ninety (90) 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 thirty (30) days or after the expiration of twelve (12) months from the time such claim or demand is presented. Unless the said claim or demand is so presented within ninety (90) days, and unless suit is brought within twelve (12) months thereafter, any action there on shall be barred.

(Sess. Laws 1971, Ch. 271, § 12; amended by Sess. Laws 1979, Ch. 324; Amended by Sess. Laws 1983, Ch. 291)

*Editor's note:* Session Laws of 1979, Ch. 324, amended Charter Sections 3.1, 3.2, 3.3(b), 3.5, 3.7(b) and rewrote Article IV of the Charter in its entirety. Charter Section 4.5 Was added by the Session Laws of 1983, CH. 291.

#### SECTION 13. [REPEAL].

Section 3 of Chapter 290 of the Public Local Laws of 1931 is hereby repealed. The provisions of G.S. § 130-126 shall be applicable to the Woodfin Sanitary Water and Sewer District as to the election of members of the board of trustees of the District except as hereinafter provided. The current board shall serve until the election to be held in June 1971, authorized in this Act. At that time, three trustees shall be elected from among those who file for the offices. Those elected in June 1971, shall serve until the November 1972 election and until qualification of their successors as provided by G.S. § 130-126.

(Sess. Laws 1971, Ch. 271, § 13)

*Editor's note:* See G.S. § 130A-47 et seq. for current statutes creating and regulating sanitary districts.

#### SECTION 14. [SEVERABILITY].

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 application 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.

(Sess. Laws 1971, Ch. 271 § 14)

#### SECTION 15. [CONFLICTS].

All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

(Sess. Laws 1971, Ch. 271, § 15)

#### SECTION 16 [EFFECTIVE DATE]

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

(Sess. Laws 1971, Chapter 271, § 16)

In the General Assembly read three times and ratified, this the 30<sup>th</sup> day of April, 1971.

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