

## **THE CHARTER AND OTHER RELATED LAWS**



- Section 1. Town incorporated.
- Section 2. Administration and government.
- Section 3. Officers; term of office.
- Section 4. Mayor's compensation.        **DIVISION 1**

**SECTION 1. TOWN INCORPORATED.**

That the inhabitants of all that territory in Sampson County within a radius of one mile from the post-office of Newton Grove at the intersection of Highway number twenty-three and the old Smithfield and Clinton Highway be, and they are hereby incorporated under the name "Newton Grove," and shall have all rights, powers, and privileges conferred upon Cities and Towns by Chapter fifty-six of the Consolidated Statutes and amendments thereto relating the Municipal Corporations. (Pr. Laws 1935, C. 163, Sec. 1; Pr. Laws 1935, C. 199, Sec. 1)

**SECTION 2. ADMINISTRATION AND GOVERNMENT.**

That the administration and government of said Town shall be vested in a Mayor and Board of five Aldermen and such other officers as may be provided for in the Municipal Corporations Act. (Pr. Laws 1935, C. 163, Sec. 2)

**SECTION 3. OFFICERS; TERMS OF OFFICE.**

That N. B. Lee be and he is hereby appointed Mayor of the Town of Newton Grove and C. G. Warren, L. W. Grantham, H. I. Rayford, H. A. Bizzel and G. C. Tart be, and they are hereby appointed Aldermen for said Town each to serve until Tuesday after the first Monday in May, one thousand nine hundred and thirty-seven, at which time, and biennially thereafter, the officers of said Town shall be elected.

(Pr. Laws 1935, C. 163, Sec. 3)

***Statutory reference:***

*Municipal Election Laws, G.S. 163*

**Editorial note:**

*The provision for biennial elections has been amended by a Town ordinance enacted August 7, 1979. This ordinance provides that at the first election of Commissioners held more than ninety (90) days after the effective date of the ordinance, the two (2) elected candidates for Board of Commissioners receiving the most votes would each serve a four (4) -year term and the other three (3) elected candidates for Board of Commissioners would each serve a two (2) -year term. Thereafter, all terms of Commissioners are to be four (4) -year terms.*  
(Ord. of 8/7/79)

**SECTION 4. MAYOR'S COMPENSATION.****Editorial note:**

*Compensation referred to was that derived from Mayor's Court fees, and the Mayor's Court has been abolished. Chapter 752, Session Laws 1961, which established an additional fee to be charged in the Mayor's Court of the Town is obsolete now that all Mayor's Courts have been abolished.*

**SESSION LAWS 1971**

**Chapter 181**  
**RELATED LOCAL LAWS**  
*Alcoholic Beverage Control Stores*

- Section 1. Petition; election.
- Section 2. Ballots.
- Section 3. Control Board established.
- Section 4. Duties and powers of Board.
- Section 5. Revenue.
- Section 6. Referendum not passed.

***ALCOHOLIC BEVERAGE CONTROL STORES***

**SECTION 1. PETITION; ELECTION.**

The Governing Body of the Town of Newton Grove may, on its own motion, and shall, upon receipt of petition signed by qualified voters of the Town equal in number to fifteen percent (15%) of the votes cast for Mayor in the most recent regular Town election, call and conduct a special election in the Town upon the question whether alcoholic beverage control stores shall be established in the Town. No new registration of voters shall be necessary for such special election, and all qualified voters of the Town who are registered prior to the registration period shall be entitled to vote in such special elections. Notice of such special election shall be posted at the Town Hall and at two other public places otherwise provided herein, the special election shall be conducted in accordance with the law, rules, and regulations governing regular Town elections in the Town of Newton Grove. Such special election may be held on the same day as any regular Town election or any other special election.

**SECTION 2. BALLOTS.**

At such special elections, ballots shall be provided which contain the words “For Town Alcoholic Beverage Control Stores” and “Against Town Alcoholic Beverage Control Stores”, with appropriate squares so that each voter may designate by his cross (X) mark his preference.

**SECTION 3. CONTROL BOARD ESTABLISHED.**

If a majority of the votes cast at such special election shall be cast “For Town Alcoholic Beverage Control Stores”, then it shall thereafter be lawful for such stores to be established and operated within the Town and the Governing Body shall immediately create the Town of Newton Grove Alcoholic Beverage Control Board, to be composed of a Chairman and two other members. The Chairman and members shall be appointed by the Governing Body. The member designated as Chairman shall serve for a term of two years, and one member for a term of one year. After the initial terms, successors shall be appointed for terms of three years. Any vacancy on such Board shall be filled by the Governing Body for the unexpired term. Compensation of the members of the Board shall be fixed by the Governing Body.

**SECTION 4. DUTIES AND POWERS OF BOARD.**

The Town of Newton Grove Alcoholic Beverage Control Board shall have all the powers granted to, and duties imposed upon, county alcoholic control boards by G.S. 18-45 and shall be subject to the powers and authority of the State Board of Alcoholic Control as granted by G.S. 18-39; provided, however, that G.S. 18-45(15) and G.S. 18-39(10) shall not be applicable to the Town of Newton Grove Alcoholic Beverage Control Board.

**SECTION 5. REVENUE.**

The net annual revenue from the operation of alcoholic beverage control stores remaining after payment of all costs and operating expenses and after retaining sufficient working capital in an amount determined by the Town of Newton Grove Alcoholic Beverage Control Board shall be paid to the Town of Newton Grove. The Governing Body of the Town shall appropriate for law enforcement purposes an amount not less than five percent (5%) nor more than ten percent (10%) of such net annual revenue, and shall assign to one of its police officers the additional duty of enforcing the alcoholic beverage control laws, and in performing such duty, such officer shall have county-wide jurisdiction; provided, that in lieu of assigning such additional duty to one of its police officers, the Governing Body may, in its discretion, appropriate such amount for support of a joint alcoholic beverage control law enforcement effort with any other municipalities in Sampson County, upon such terms and conditions as it deems wise. So much of the net annual revenue then remaining, after such appropriation for law enforcement

purposes, may be used for any authorized Town purpose or function. The Town Alcoholic Beverage Control Board may, with the approval of the Governing Body of the Town, appropriate or pay out the funds authorized by this section on a quarterly basis after sufficient working capital has initially been set aside.

**SECTION 6. REFERENDUM NOT PASSED.**

If a majority of the votes cast in such special election shall be cast “Against Town Alcoholic Beverage Control Stores”, then no Town alcoholic beverage control stores shall be established in the Town of Newton Grove under authority of this act unless authorized by a subsequent election conducted under authority of Section 1 of this act.





**OF THE BOARD OF COMMISSIONERS**

**ARTICLE 5**

**STATE LAWS GOVERNING THE ORGANIZATION AND PROCEDURES**  
*Form of Government*

Part 1. General Provisions

- Section 160A-60. Qualifications for appointive office.
- Section 160A-61. Oath of office.
- Section 160A-62. Officers to hold over until successors qualified.
- Section 160A-63. Vacancies.
- Section 160A-64. Compensation of mayor and council.
- Section 160A-65. Fidelity bonds.

Part 2. Mayor and Council

- Section 160A-66. Composition of council.
- Section 160A-67. General powers of Mayor and council.

Part 3. Organization and Procedures of the Council.

- Section 160A-68. Organizational meeting of council.
- Section 160A-70. Mayor pro tempore; disability of mayor.
- Section 160A-71. Regular and special meetings; procedure.
- Section 160A-72. Minutes to be kept; ayes and noes.
- Section 160A-74. Quorum.
- Section 160A-75. Voting.
- Section 160A-80. Power of investigation; subpoena power.
- Section 160A-81. Conduct of public hearings.

***PART 1. GENERAL PROVISIONS*****SECTION 160A-60. QUALIFICATION FOR APPOINTIVE OFFICE.**

Residence within a city shall not be a qualification for or prerequisite to appointment to any city office not filled by election of the people, unless the charter or an ordinance provides otherwise. City councils shall have authority to fix qualifications for appointive offices, but shall have no authority to waive qualifications for appointive offices fixed by charters or general laws. (1870-1, c. 24, s. 3; Code, s. 3796; Rev., s. 2941; C.S., s. 2646; 1951, c. 24; 1969, c. 134, s. 1; 1971, c. 698, s. 1.)

**SECTION 160A-61. OATH OF OFFICE.**

Every person elected by the people or appointed to any city office shall, before entering upon the duties of the office, take and subscribe the oath of office prescribed in Article VI, Section 7 of the Constitution. Oaths of office shall be administered by some person authorized by law to administer oaths, and shall be filed with the city clerk. (R.C., c. 111, s. 12; Code, s. 3799; Rev., s. 2920; C.S., s. 2628; 1971, c. 698, s. 1)

**SECTION 160A-62. OFFICERS TO HOLD OVER UNTIL SUCCESSORS QUALIFIED.**

All city officers, whether elected or appointed, shall continue to hold office until their successors are chosen and qualified. This section shall not apply when an office or position has been abolished, when an appointed officer or employee has been discharged, or when an elected officer has been removed from office. (R.C., c. 111, s. 8; Code, s. 3792; Rev., s. 2943; C.S., s. 2648; 1971, c. 698, s. 1.)

**SECTION 160A-63. VACANCIES.**

All vacancies that occur in any elective office of a city shall be filled by appointment of the city council for the remainder of the unexpired term. If the number of vacancies on the council is such that a quorum of the council cannot be obtained, the mayor shall appoint enough members to make up a quorum, and the council shall then proceed to fill the remaining vacancies. If the number of vacancies on the council is such that a quorum of the council cannot be obtained and the office of mayor is vacant, the Governor may fill the vacancies upon the request of any remaining member of the council, or upon the petition of any five registered voters of the city. Vacancies in appointive officers shall be filled by the same authority that makes the initial appointment. This section shall not apply to vacancies in cities that have not held a city election, levied any taxes, or engaged in any municipal functions for a period of five years or more.

In cities whose elections are conducted on a partisan basis, a person appointed to fill a vacancy in an elective office shall be a member of the same political party as the person whom he replaces if that person was elected as the nominee of a political party.  
(R.C., c. 111, ww. 9, 10; Code, ss. 3793, 3794; Rev., ss. 2921, 2931; C.S., ss. 2629, 2631; 1971, c. 698, s. 1; 1973, c. 426, s. 11)

#### **SECTION 160A-64. COMPENSATION OF MAYOR AND COUNCIL.**

(A) The council may fix its own compensation and the compensation of the mayor and any other elected officers of the city by publication in and adoption of the annual budget ordinance, but the salary of an elected officer other than a member of the council may not be reduced during the then-current term of office unless he agrees thereto. The mayor, councilmen, and other elected officers are entitled to reimbursement for actual expenses incurred in the course of performing their official duties at rates not in excess of those allowed to other city officers and employees, or to a fixed allowance, the amount of which shall be established by the council, for travel and other personal expenses of office; provided, any fixed allowance so established during a term of office shall not be increased during such term of office.

(B) All charter provisions in effect as of January 1, 1972, fixing the compensation or allowances of any city officer or employee are repealed, but persons holding office or employment on January 1, 1972, shall continue to receive the compensation and allowances then prescribed by law until the council provides otherwise in accordance with this section or G.S. 160A-162.  
(1969, c. 181, s. 1; 1971, c. 698, s. 1)

#### **SECTION 160A-65. FIDELITY BONDS.**

(A) Every officer, employee, or agent of a city who handles or has in his custody more than \$100 of city funds at any time shall, before assuming his duties, give bond with good sureties payable to the city in an amount to be determined by the council, that he will faithfully perform the duties of his office and render a true accounting for all city funds that may come into his custody or control. Unless otherwise required by law, the council may waive the faithful performance bond, but may not waive the true accounting bond. The city may pay the premiums on all bonds. The bond, when approved, shall be deposited with the city clerk.

(B) Cities may adopt a system of blanket faithful performance or true accounting bonding as an alternative to individual bonds. When such a system is adopted, statutory requirements of individual bonds, except for accountants, treasurers, and tax collectors by whatever title known, shall not apply to any officer or employee covered by the blanket bond.  
(1917, c. 136, sub-ch. 13, s. 15; C.S., 2828; 1945, c. 619; 1967, c. 800, s. 1; 1971, c. 698, s. 1.)

***PART 2. MAYOR AND COUNCIL*****SECTION 160A-66. COMPOSITION OF COUNCIL.**

Unless otherwise provided by its charter, each city shall be governed by a mayor and a council of three members, who shall be elected from the city at large for terms of two years.  
(1971, c. 698, s. 1.)

**SECTION 160A-67. GENERAL POWERS OF MAYOR AND COUNCIL.**

Except as otherwise provided by law, the government and general management of the city shall be vested in the council. The powers and duties of the mayor shall be such as are conferred upon him by law, together with such other powers and duties as may be conferred upon him by the council pursuant to law. The mayor shall be recognized as the official head of the city for the purpose of service of civil process and for all ceremonial purposes.  
(1971, c. 698, s. 1.)

***PART 3. ORGANIZATION AND PROCEDURES OF THE COUNCIL*****SECTION 160A-68. ORGANIZATIONAL MEETING OF COUNCIL.**

The organizational meeting of the council shall be held on the date and at the time of the first regular meeting in December after the results of the election have been certified pursuant to Subchapter IX of Chapter 163 of the General Statutes. At the organizational meeting, the newly elected mayor and councilmen shall qualify by taking the oath of office prescribed in Article VI, Sec. 7 of the Constitution. The organization of the council shall take place notwithstanding the absence, death, refusal to serve, failure to qualify, or nonelection of one or more members, but at least a quorum of the members must be present.  
(1971, c. 698, s. 1; 1973, c. 426, s. 13; c. 607.)

**SECTION 160A-70. MAYOR PRO TEMPORE; DISABILITY OF MAYOR.**

At the organizational meeting, the council shall elect from among its members a mayor pro tempore to serve at the pleasure of the council. A councilman serving as mayor pro tempore shall be entitled to vote on all matters and shall be considered a councilman for all purposes, including the determination of whether a quorum is present. During the absence of the mayor, the council may confer upon the

mayor pro tempore any of the powers and duties of the mayor. If the mayor should become physically or mentally incapable of performing the duties of his office, the council may by unanimous vote declare that he is incapacitated and confer any of his powers and duties on the mayor pro tempore. Upon the mayor's declaration that he is no longer incapacitated, and with the concurrence of a majority of the council, the mayor shall resume the exercise of his powers and duties.  
(1971, c. 698, s. 1)

#### **SECTION 160A-71. REGULAR AND SPECIAL MEETINGS; PROCEDURE.**

(A) The council shall fix the time and place for its regular meetings. If no action has been taken fixing the time and place for regular meetings, a regular meeting shall be held at least once a month at 10:00 A.M. on the first Monday of the month.  
(1973, c. 426, s. 14)

(B) The mayor, the mayor pro tempore, or any two members of the council may at any time call a special council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the mayor and each councilman or left at his usual dwelling place at least six hours before the meeting. Special meetings may be held at any time when the mayor and all members of the council are present and consent thereto, or when those not present have signed a written waiver of notice. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice.

(C) The council may adopt its own rules of procedure, not inconsistent with the city charter, general law, or generally accepted principles of parliamentary procedure.  
(1917, c. 136, sub-ch. 13, s. 1; C.S., s. 2822; 1971, c. 698, s. 1)

#### **SECTION 160A-72. MINUTES TO BE KEPT; AYES AND NOES.**

Full and accurate minutes of the council proceedings shall be kept, and shall be open to the inspection of the public. The results of each vote shall be recorded in the minutes, and upon the request of any member of the council, the ayes and noes upon any question shall be taken.  
(1917, c. 136, sub-ch. 13, s. 1; C.S., s. 2822; 1971, c. 698, s. 1; 1973, c. 426, s. 15.)

#### **SECTION 160A-74. QUORUM.**

A majority of the membership of the council shall constitute a quorum. The number required for a quorum shall not be affected by vacancies. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.  
(1917, c. 136, sub-ch. 13, s. 1; C.S., s. 2821; 1971, c. 698, s. 1)

**SECTION 160A-75. VOTING.**

No member shall be excused from voting except upon matters involving the consideration of his own financial interest or official conduct. In all other cases, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the council is not a matter involving a member's own financial interest or official conduct.

An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue (including the mayor's vote in case of an equal division) shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two thirds of all members of the council (not including the mayor unless he has the right to vote on all questions before the council).

(1917, c. 136, sub-ch. 13, s. 1; C.S., s. 2821; 1971, c. 698, s. 1; 1973, c. 426, s. 16)

**SECTION 160A-80. POWER OF INVESTIGATION; SUBPOENA POWER.**

(A) The council shall have power to investigate the affairs of the city, and for that purpose may subpoena witnesses, administer oaths, and compel the production of evidence.

(B) If a person fails or refuses to obey a subpoena issued pursuant to this section, the council may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the council pursuant to a subpoena issued in exercise of the power conferred by this section may be used against him on the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. If any person, while under oath at an investigation by the council, willfully swears falsely, he is guilty of a misdemeanor.

(C) This section shall not apply to cities having a population of less than 5,000.  
(1971, c. 698, s. 1)

**SECTION 160A-81. CONDUCT OF PUBLIC HEARINGS.**

Public hearings may be held at any place within the city or within the county in which the city is located. The council may adopt reasonable rules governing the conduct of public hearings, including but not limited to rules (i) fixing the maximum time allotted to each speaker, (ii) providing for the

designation of spokesmen for groups of persons supporting or opposing the same positions, (iii) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall, and (iv) providing for the maintenance of order and decorum in the conduct of the hearing.

The council may continue any public hearing without further advertisement. If a public hearing is set for a given date and a quorum of the council is not then present, the hearing shall be continued until the next regular council meeting without further advertisement.  
(1971, c. 698, s. 1.)





*Delegation and Exercise of the General Police Power*

Section 160A-175. Enforcement of ordinances

**ARTICLE 8**

***DELEGATION AND EXERCISE OF THE GENERAL POLICE POWER***

**SECTION 160A-175. ENFORCEMENT OF ORDINANCES.**

(A) A city shall have power to impose fines and penalties for violation of its ordinances, and may secure injunctions and abatement orders to further insure compliance with its ordinances as provided by this section.

(B) Unless the council shall otherwise provide, violation of a city ordinance shall be a misdemeanor as provided by G.S. 14-4. An ordinance may also provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation shall be some figure or number of days less than the maximum penalties prescribed by G.S. 14-4.

(C) An ordinance may provide that violation shall subject the offender to a civil penalty to be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance.

(D) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the city for equitable relief that there is an adequate remedy at law.

(E) An ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such an ordinance occurs the city may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that other action be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the city may execute the order of abatement. The city shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(F) Subject to the express terms of the ordinance, a city ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.

(G) A city ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense.  
(1971, c. 698, s. 1.)