

**CHARTER**



**BENSON, NORTH CAROLINA  
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(1971 Sessions Laws, C. 623)

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**CHARTER*****ARTICLE I. INCORPORATION AND CORPORATE POWERS*****SECTION 1.1. INCORPORATION AND GENERAL POWERS.**

The Town of Benson shall continue to be a body politic and corporate under the name of the “Town of Benson”, 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 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.

**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 Board of Commissioners 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 those appropriate to the exercise of such powers, the Town of Benson 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****SECTION 2.1. EXISTING CORPORATE BOUNDARIES.**

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

Beginning at a point, the center of the west track of the Seaboard Coastline Railroad, two thousand five hundred and ten (2510) feet northeast of a point, the center of Main Street and center of the original location of the said west track where Main Street intersects the aforesaid railroad in the Town of Benson; thence south fifty degrees and thirty minutes east two thousand three hundred and ten (2310) feet to a point; thence south thirty-five degrees and twenty-four minutes west six hundred and five (605) feet to a point in the north margin of East Holmes Street; thence south eighty-one degrees and forty-two minutes east along the north margin of East Holmes Street, and its extension, nine hundred and thirty (930) feet to a point in the west margin of the Smithfield Road; thence south thirty-seven degrees and fifty-eight minutes west four hundred and forty-two (442) feet, to a point in the east margin of the Smithfield Road; thence south eighty-three degrees and twelve minutes east three hundred and twenty (320) feet to a point in the west margin of U.S. Interstate Highway I-95; thence south fifty-eight degrees and thirty-seven minutes west one thousand six hundred and seventy-two (1672) feet along the west margin of U.S. Interstate Highway I-95 to a point; thence four hundred and fifty-one (451) feet along the west margin of U.S. Interstate Highway I-95 on a curve to a point, the intersection of the west margin of the Smithfield Road and the north margin of East Church Street; thence in a southeasterly direction approximately 1250 feet across Interstate Highway I-95 to a point in the west margin of N.C. 50 Highway; thence south 491-02 E along the west margin of N.C. 50 Highway 5600 feet to a point; thence S 401-58' W 212.79 feet to a point; thence south 61-09' W 66.83 feet to a point; thence N. 831-51' W 189.96 feet to a point; thence N. 021-02' E. 199.70 feet to a point in the south margin of N.C. 242 Highway; thence in a northeasterly direction across Interstate Highway I-95 approximately 1050 feet to a point at the intersection of East Main Street (N.C. 50 Highway) and Interstate Highway I-95; thence on reverse curves two thousand three hundred and eighty-four (2384) feet along the west margin of U.S. Interstate Highway I-95 to a point; thence north fifty degrees and thirty minutes west four thousand eight hundred and ninety-two (4892) feet to a point said line being parallel with and seventy-nine (79) feet south of the south margin of sixty-six (66) feet wide Mann Street; thence north four degrees and zero minutes east three thousand two hundred (3200) feet to a point; thence south eighty degrees and forty minutes east one thousand six hundred and sixty-five (1665) feet to a point, the intersection of the east margin of the Raleigh Road (Lincoln Street), and the north margin of West Martin Street; thence south fifty degrees and thirty minutes east along the north margin of West Martin Street four hundred and thirty four (434) feet to a point; thence north thirty-nine degrees and thirty minutes east one thousand one hundred and seventy-seven (1177) feet to a point; thence south fifty degrees and thirty minutes east nine hundred and eighty-one (981) feet to a point in the east margin of Hale Street; thence north thirty-nine degrees and thirty minutes east two hundred (200) feet to a point in the beginning line if extended westward thence south fifty degrees and thirty minutes east one thousand three hundred and twenty-nine (1329) feet, along the said beginning line if extended westward, to the point of beginning.

**Editorial Note:** Several tracts of land have been annexed to the city by ordinance of the governing body. A current map of the corporate limits is available for public inspection in the office of the Town Clerk.

**SECTION 2.2. EXTENSION OF CORPORATE BOUNDARIES.**

All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina, except as otherwise herein provided.

***ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS*****SECTION 3.1. COMPOSITION OF THE BOARD OF COMMISSIONERS.**

Beginning with the 1989 municipal election, the Board of Commissioners shall consist of six members to be elected in the manner provided in Article IV.  
(Amended, 1989 Sess. Laws)

**SECTION 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 upon any question, or upon the appointment of officers, 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 members 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.

**SECTION 3.3. TERMS; QUALIFICATIONS; VACANCIES.**

(a) Except as provided in Section 4.1, the members of the Board of Commissioners shall serve for terms of four years, and the Mayor shall serve for a term 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 shall 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. In addition, no person shall be eligible to be a candidate for, or to be elected or serve as, a Commissioner for District 1, 2 or 3, unless he is a resident and qualified voter of that particular district.

(c) In the event a vacancy occurs in the office of Mayor, the Board of Commissioners shall by a majority vote appoint some qualified person to fill the same for the remainder of the unexpired term. Any vacancy in the office of Commissioner shall be filled by majority vote of the remaining members of the Board for the remainder of the unexpired term. The person appointed to fill a vacancy in the office of Commissioner for District 1, 2 or 3 must reside in the district for which appointed.  
(Amended, 1989 Sess. Laws)

**SECTION 3.4. ORGANIZATION OF BOARD OF COMMISSIONERS; OATHS OF OFFICE.**

The Board of Commissioners 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 Commissioner shall take, subscribe and have entered upon the minutes of the Board the oath of office required by Article VI, Section 7 of the Constitution of North Carolina.

**SECTION 3.5. 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.

**SECTION 3.6. 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 the event 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.

**SECTION 3.7. 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 clause of all ordinances shall be: "Be it ordained by the Board of Commissioners of the Town of Benson". All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

***ARTICLE IV. ELECTION PROCEDURE*****SECTION 4.1. REGULAR MUNICIPAL ELECTIONS.**

Municipal elections shall be nonpartisan plurality elections and shall be held in odd-numbered years at the time set by State law. In the 1989 election four Commissioners shall be elected. A Commissioner for District 1 shall be elected for a term of two years by the voters of District 1 only. Three other Commissioners shall be

elected by the voters of the entire town for terms of four years each. In the 1991 election and every four years thereafter three Commissioners shall be elected, one each for Districts 1, 2 and 3. Only the voters residing in a district may vote for the Commissioner for that district. In the 1993 election and every four years thereafter three Commissioners shall be elected by the voters of the entire town.

(Amended,

#### **SECTION 4.2. VOTING.**

In each election each voter shall be entitled to vote for one candidate for Mayor. In each election in which Commissioners for Districts 1, 2 and 3 are being chosen, each voter shall be entitled to vote for one candidate for Commissioner for the district in which the voter resides. In each election in which the three Commissioners to be elected by the entire town are being chosen, the names of all candidates for those offices shall be placed on a single ballot and each voter shall be entitled to vote for one candidate only.

(Amended, 1989 Sess. Laws)

1989 Sess. Laws)

#### **SECTION 4.3. 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 of five dollars (\$5.00), shall be signed in the presence of the Town Clerk or his designee, and shall be substantially in the following form: "I, \_\_\_\_\_, do hereby give notice that I am a candidate for 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 Benson, residing at

Date: \_\_\_\_\_(Signature)"

*Editorial Note:* Filing Fee is \$10.00 under G.S. § 163-294.2.

#### **SECTION 4.4. 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.

#### **SECTION 4.5. 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.

**SECTION 4.6. DESCRIPTIONS OF DISTRICTS.**

The Districts for the election of Commissioners are:

**District 1.** The eastern side of town included within the following line beginning at the intersection of Market Street with the southern town limits and running clockwise to the same point as follows: North on Market Street to Brocklyn Street, east on Brocklyn to the western side of Interstate 95, north along the western side of Interstate 95 one block to Harnett Street, west on Harnett one block to George Street, north on George (or the line George would follow if extended north at that point) one block to Parrish Street, west on Parrish to Dunn Street, north on Dunn three blocks to Hill Street, east on Hill to Catherine Street, north on Catherine to Morris Avenue, east on Morris to Hall Street, north on Hall two blocks to Branch Street, west on Branch to Johnson Street, north on Johnson to U.S. Highway 301, east on 301 to the town limits, then south and clockwise along the town limits to the starting point.

**District 2.** The middle portion of the town included between the western boundary of District 1 and the following line running south to north from its beginning at the intersection of Ryals Street and Mann Street at the southern town limits: North on Ryals Street four blocks to Harnett Street, east on Harnett to Farmer Road, north on Farmer two blocks to Main Street, east on Main one block to Wall Street, north on Wall one block to Church Street, each on Church one block to the railroad tracks, north on the railroad tracks to the town limits at U.S. Highway 301.

**District 3.** The western side of the town including all of the town west of the line described above as the boundary for District 2.  
(Added, 1989 Sess. Laws)

***ARTICLE V. TOWN ATTORNEY*****SECTION 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.

**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, Board of Commissioners, Town Manager, 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 Board of Commissioners, when requested by the Board; and to perform such other duties as may be required of him by virtue of his position of Town Attorney.

***ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES***

**SECTION 6.1. TOWN CLERK.**

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 may direct.

**SECTION 6.2. RESERVED.****SECTION 6.3. 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.

*Editorial Note:* Now designated Local Government Budget and Fiscal Control Act. G.S. §§ 159-1 *et seq.*

**SECTION 6.4. CONSOLIDATION OF FUNCTIONS.**

The Board of Commissioners may consolidate any two or more of the 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.

**ARTICLE VII. FINANCE****SECTION 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 or depositories. Such institutions 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.

**SECTION 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, 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.

### ***ARTICLE VIII. DISPOSAL OF PROPERTY***

#### **SECTION 8.1. DISPOSAL OF SURPLUS REAL PROPERTY.**

Subject to the provisions of subsection (c) of this Section, the 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 two thousand dollars (\$2,000.00);

(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 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.

#### **SECTION 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 property, in the following manner:

(a) Without bids or advertisement, at private sale, if the property has a market value of five hundred dollars (\$500.00) or less;

(b) To the highest bidder upon receipt of informal written bids, with only such advertisement as the Board of Commissioners may direct, if the property has a market value of more than five hundred dollars (\$500.00) but no more than two thousand dollars (\$2,000.00); provided, all such bids received shall be recorded on the minutes of 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 two thousand dollars (\$2,000.00); provided, all such sealed bid proposals shall be opened in public and recorded on the minutes of the Board.

***Editorial Note:*** The statutes cited in the above Article have been repealed and replaced by corresponding statutes in G.S. Chapter 160A. (See G.S. §§ 160A-266 *et seq.*)

***ARTICLE IX. POLICE*****SECTION 9.1. JURISDICTION EXTENDED.**

(a) The jurisdiction of the police force is hereby extended to include all territory outside and within two miles 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.

**SECTION 9.2. EFFECT OF ORDINANCES 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.

***ARTICLE X. STREET IMPROVEMENTS: ASSESSMENT OF COSTS*****SECTION 10.1. AUTHORITY.**

In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Board of Commissioners is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

**SECTION 10.2. WHEN PETITION UNNECESSARY.**

The Board of Commissioners may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property owners at an equal rate per front foot, without the necessity of a petition, upon the finding by the Board as a fact:

(a) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvements, or

(b) That it is in the public interest to connect two streets, or portions of a street already improved, or

(c) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of street without petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

**SECTION 10.3. STREET IMPROVEMENT DEFINED.**

For the purposes of this Article, the term “street improvement” shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

**SECTION 10.4. SIDEWALK IMPROVEMENTS.**

In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board of Commissioners is hereby authorized to order to be made or to make sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners; provided, however, that the Board of Commissioners may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street. In ordering sidewalk improvements or repairs under authority of this Section, the Board of Commissioners shall comply with the procedure provided by Article 9, Chapter 160 of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof. The effect of levying assessments under authority of this Section shall for all purposes be the same as if the assessments were levied under authority of Article 9, Chapter 160 of the General Statutes.

**SECTION 10.5. ASSESSMENT PROCEDURE.**

In ordering street improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Commissioners shall comply with the procedure provided by Article 9, Chapter 160 of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

**SECTION 10.6. EFFECT OF ASSESSMENTS.**

The effect of the act of levying assessments under authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 9, Chapter 160 of the General Statutes.

**SECTION 10.7. ACCEPTANCE OF CONVEYANCE IN SATISFACTION OF ASSESSMENTS.**

The Town Tax Collector or other official or employee of the Town having charge of the collection of special assessments, shall have the right, power, and authority, by and with the approval of the Board of Commissioners first had and obtained, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of all street and sidewalk assessments outstanding and unpaid against such property. Such right, power, and authority, however, shall be limited to conveyance of the whole of the lot or parcel of land against which the particular assessment or assessments involved were levied. No lot or tract of land may be divided and such right, power, and authority exercised as to a part, only, of the property originally embraced in and covered by said assessment or assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessment or

assessments against the property be foreclosed; but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property, as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street and sidewalk assessment or assessments.

*Editorial Note:* The statutes cited in Articles X and XI of the Charter have been repealed and replaced by corresponding Statutes in G.S. Chapter 160A. (See G.S. §§ 160A-216 *et seq.*)

## **ARTICLE XI. WATER AND SEWER**

### **SECTION 11.1. LATERALS INCLUDED IN COST.**

In ordering water or sewer line extensions, or both, and the assessment of the costs thereof under authority of G.S. § 160-241 or any other law, the Board of Commissioners is hereby authorized to include in such extensions water and sewer line laterals, and to include the cost of such laterals in the total cost to be assessed upon abutting properties.

### **SECTION 11.2. CORNER LOT EXEMPTIONS.**

The Board of Commissioners is hereby authorized to establish, by ordinance or resolution, schedules of exemptions for assessments for water and sewer line extensions for corner lots when water or sewer lines, or both, are installed along both sides of such lots and when the cost of such installation along both sides were or are financed in whole or in part by assessments. The schedules of exemptions may be classified as to land uses (residential, commercial, industrial, institutional, or agricultural) and shall be uniform for each such classification used; provided, however, that no schedule of exemptions may provide for exemption of more than fifty per cent (50%) of the frontage on any side of a corner lot, or 150 feet, whichever is greater.

### **SECTION 11.3. ALTERNATIVE METHODS OF ASSESSMENT.**

In addition to, and as alternatives, to the method provided in G.S. § 160-241 for assessing the costs of water and sewer lines and laterals, the Board of Commissioners, if in its opinion it would be more equitable to do so, is hereby authorized in its discretion to levy any such assessments according to either of the following methods: (1) equally against each of the lots capable of being served by such line or lines, or (2) on the basis of the footage of land upon a public street by an equal rate per foot of such frontage.

In lieu of assessing the total cost of a particular project as herein provided, the governing body may annually, between the first days of January and July of each year, determine the average cost of installing water and sewer mains or lines and on the basis of such determination may make assessments of such average cost during the following fiscal year beginning July 1. The average cost of such installation shall include the cost of the particular size and material of lines completed during the preceding calendar year. It may also include the anticipated increase in labor and materials costs based upon the average of such increases during the preceding five calendar

years. The assessment of the average cost of such line shall not be made until after the particular assessment project has been completed. The purpose of this Section is to distribute more equitably the cost of the installation of water and sewer lines throughout the Town; to permit a property owner to know in advance what the cost of installation of water and sewer lines benefiting his property will be; and to permit the most expeditious assessment of cost against property after completion of the installation of such lines. The actual cost of acquisition of rights-of-way may also be assessed as a part of the cost of an individual project. If the right-of-way costs have not been determined and assessed with the assessment of the average installation costs at the time of the completion of the project, such costs may be assessed separately when they are determined.

#### **SECTION 11.4. WATER CONNECTIONS.**

In addition to the authority granted by G.S. § 160-240, the Board of Commissioners may require owners of improved property which may be located upon or near any water line of the Town to connect with the Town water system, and may establish and collect reasonable charges for such connections.

### ***ARTICLE XII. REFUSE, WEEDS, AND TRASH***

#### **SECTION 12.1. PROPERTY KEPT FREE OF OFFENSIVE MATTER.**

It shall be the duty of every property owner in the Town to keep his property free from noxious weeds, trash, and all other forms of offensive animal or vegetable matter or refuse which may be dangerous or prejudicial to the public or which may constitute a public nuisance.

#### **SECTION 12.2. REMOVAL OF OFFENSIVE MATTER; CHARGES A LIEN.**

The Board of Commissioners may by ordinance establish a procedure whereby Town forces may clean, cut, and remove any weeds, trash, refuse or other offensive matter from any property upon failure of the owner or occupant after ten days' notice to do so. In such event, the cost of such cleaning, cutting and removal shall become a lien upon the particular property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the Town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs and penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes.

**ARTICLE XIII. REGULATORY POWERS****SECTION 13.1. SUBDIVISION REGULATIONS.**

Any subdivision control ordinance enacted by the Board of Commissioners pursuant to general law 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 requirements, the ordinance may require the posting of bond or such other method as will offer guarantee of compliance.

**SECTION 13.2. REGULATORY CODES.**

The Board of Commissioners is hereby authorized to make effective and to enforce within the territory lying outside the corporate limits and within one mile thereof 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, and ordinances adopted pursuant to G.S. § 160-200(28) relating to unsafe buildings. 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 Town; 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.

*Editorial Note:* The statutes cited in the above Article have been repealed and replaced with corresponding statutes in G.S. Chapter 160A. (See G.S. §§ 160A-360 *et seq.*, particularly G.S. §§ 160A-411 *et seq.*)

**ARTICLE XIV. ANNEXATION****SECTION 14.1. AUTHORITY.**

In addition to annexation of territory pursuant to provisions of general law, the Town may annex territory in accordance with the following provisions of law.

(a) The owner or owners of any area, territory or subdivision within the boundaries of Johnston County, and Harnett County, but not within the boundaries or extraterritorial zoning jurisdiction of any other municipality, whose property is not contiguous to the municipal boundaries of the Town, may, by petition directed to the Board of Commissioners of the Town of Benson, request that the property described in the petition be annexed and made

a part of the Town as hereinafter set out; provided any property annexed as herein provided must be located at the closest point not more than three miles from the Town limits wherein is located and situated the Town Hall, provided, further, that such petition must be presented as herein provided to such Board of Commissioners on or before June 30, 1973.

(b) The petition shall be directed to the Board of Commissioners of the Town of Benson and shall contain:

- (1) The names of the owners of the real property for which the request to annex is made.
- (2) A metes and bounds description of the areas to be annexed.
- (3) The signatures of all property owners of the area, territory or subdivision requesting annexation.

(c) Upon receipt of a petition, the Board of Commissioners of the Town of Benson shall cause the Town Clerk to investigate the sufficiency thereof and to certify the results of the investigation.

Upon receipt of the certification of sufficiency and the petition, the Board of Commissioners shall fix a date for a public hearing on the question of annexation and shall cause notice of the public hearing to be published in a newspaper having general circulation in the Town at least ten days prior to the date of the public hearing. At such public hearing, all persons opposing or favoring the annexation or alleging an error in the petition shall be given an opportunity to be heard. The Board of Commissioners shall then find and determine whether the petition meets the requirements of this Section.

Upon a further finding and determination by the Board of Commissioners that:

- (1) The public health, safety and welfare of the inhabitants of the Town of Benson, as well as those of the area, territory or subdivision requesting such annexation, will best be served by such annexation, and
- (2) The Town will be able to provide the same services to the annexed area, territory or subdivision in the same manner in which other areas within the Town boundary of said Town are served, the Board of Commissioners of the Town of Benson may adopt an ordinance annexing that area described in the petition.

From and after the effective date of the ordinance, which may be at any time within one year of its adoption, the area, territory or subdivision and its citizens shall be subject to all debts, laws, or ordinances and regulations in force in the Town of Benson, and shall be entitled to the same benefits and privileges of residents of other parts of the Town of Benson. The newly annexed area, territory or subdivision shall be subject to the Town taxes for the fiscal year following the effective date of annexation.

(d) The Board of Commissioners of the Town of Benson may make said annexation contingent on such conditions, not in conflict with other sections of this section, as it may desire in order to insure that the area, territory or subdivision proposed to be annexed will not receive preferential treatment.

(e) The Board of Commissioners in its discretion may charge in any noncontiguous area, territory or subdivision annexed water or sewer rates, or both, in excess of those charged within the Town limits wherein is located the Town Hall.

**SECTION 14.2. MAP OF ANNEXED AREA.**

Whenever the limits of the Town of Benson are enlarged in accordance with the provisions of this Act, it shall be the duty of the Town Clerk to cause an accurate map of the said area, territory or subdivision annexed to be maintained in the office of the Town Clerk.

**SECTION 14.3. NONCONTIGUOUS TERRITORY.**

Any area, territory or subdivision annexed pursuant to this Section shall cease to be noncontiguous for all intents and purposes when and in the event said area shall touch the municipal limits of the Town of Benson pursuant to the extension of the boundaries of said Town pursuant to general law.

**SECTION 14.4. AUTHORITY SUPPLEMENTAL; INVALIDITY.**

The authority, procedure and method of annexation provided by this Section shall be supplemental and in addition to any other authority, procedures and methods for annexation heretofore available or hereafter provided for the Town of Benson.

*Editorial Note:* Article XIV has been repealed by a statewide “satellite annexation” law, Session Laws, 1973, Ch. 1173.

**ARTICLE XV. CLAIMS AGAINST THE TOWN****SECTION 15.1. PRESENTATION OF CLAIMS; SUIT UPON CLAIMS.**

(a) All claims or demands against the Town of Benson 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 ejectment 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 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.

#### **SECTION 15.2. SETTLEMENT OF CLAIMS BY TOWN MANAGER.**

The Town Manager may, with the approval of the Board of Commissioners, settle claims against the Town for (1) personal injuries or damages to property when the amount involved does not exceed the sum of one hundred dollars (\$100.00) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred and (2) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed five hundred dollars (\$500.00) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager 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.

### ***ARTICLE XVI. EMINENT DOMAIN***

#### **SECTION 16.1. SANITARY LANDFILLS.**

In addition to the authority granted by G.S. § 160-204 and G.S. § 160-205 to acquire land for Town purposes, the Town of Benson is also hereby authorized to acquire by purchase pursuant to G.S. § 160-204 or by eminent domain pursuant to G.S. § 160-205 any land in fee simple or any lesser interest in land, either within or outside its corporate limits, for sanitary landfill or other garbage disposal purposes.

***Editorial Note:*** The statutes cited in the above Article have been repealed and replaced by corresponding statutes in G.S. Chapter 160A. (See G.S. § 160A-11 and G.S. § 160A-240 *et seq.*)

***CHARTER AMENDMENTS*****AN ORDINANCE AMENDING THE CHARTER OF THE TOWN OF BENSON TO ADOPT THE COUNCIL-MANAGER FORM OF GOVERNMENT.**

**BE IT ORDAINED** by the Board of Commissioners of the Town of Benson:

Section 1. Pursuant to G.S. 160A-101 and 160A-102, the Charter of the Town of Benson, as set forth in Chapter 155 of the Private Laws of North Carolina, as amended, is hereby further amended to provide that the Town of Benson shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of G.S. Chapter 160A and any charter provisions not in conflict therewith.

Section 2. The Town of Benson Clerk shall cause a notice to be duly published; stating that an ordinance amending the Charter to adopt the council-manager form of government has been adopted. Subject to any referendum petitioned for and conducted pursuant to G.S. 160A-103, this ordinance shall be in full force and effect from and after March 20, 1998.

Adopted this 10th day of February, 1998.

