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\* **Editors Note:** Printed herein is the Charter of the City of Cherryville being Session Laws 1969, chapter 581, as adopted by the legislature on May 23, 1969, and effective on the same date. Amendments to the original Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

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## ARTICLE I. INCORPORATION AND CORPORATE POWERS\*

### Sec. 1.1. Incorporation and general powers.

The City of Cherryville, as originally incorporated by Chapter 101 of the Private Laws of 1832-33, shall continue to be a body politic and corporate under the name of the "City of Cherryville," and shall continue to be vested with all property and rights which now belong to the city; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; and 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.

### Sec. 1.2. Exercise of powers.

All powers, functions, rights, privileges, and immunities of the city, 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 city council and as provided by the general laws of North Carolina pertaining to municipal corporations.

### Sec. 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 City of Cherryville 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.

\*State law reference-Corporate powers, G.S. 160A-11 et seq.

### Sec. 1.4. Form of government; certain general laws not applicable.

The form of government of the City of Cherryville shall be the Council-Manager form, as specified in this Charter. None of the provisions of Part 4 of Article 22 of Chapter 160 of the General Statutes shall be applicable to the City of Cherryville.

**Editors Note:** Article 22 of Chapter 160 of the General Statutes was repealed by section 1 of Session Laws 1969, chapter 629.

## ARTICLE II. CORPORATE BOUNDARIES AND WARDS\*

### Sec. 2.1. Existing boundaries.

The corporate boundaries of the City of Cherryville shall be as follows until changed in accordance with law: Beginning at a concrete marker, common corner of Luther Sisk and Carolina Subdivision (C.G. Beam) and runs thence the following calls and distances: S 63 deg. 04 min. E 280.0 feet; N 34 deg. E 377.0 feet; N 82 deg. 50 min. E 512.0 feet; N 64 deg. 20 min. E 559.0 feet crossing Tot Dellinger Road; S 8 deg. E 347.0 feet to a point in the northern margin of Roy Eaker Road; thence with the northern margin of Roy Eaker Road N 54 deg. E 350.0 feet to a stake; thence continuing with the northern margin of Roy Eaker Road N 50 deg. 55 min. E 947.0 feet to a stake; thence crossing Roy Eaker Road S 65 deg. E 3,036.0 feet to an old iron stake; thence crossing highway #150 S 27 deg. 54 min. W 811.0 feet to an iron pin in the center of the Seaboard Airline Railway track; thence with the center of said track S 70 deg. W 84.0 feet to an iron pin; thence S 9 deg. 43 min. E 230.0 feet to a point in the center of N.C. highway #277; thence with the center of said highway N 70 deg. E 8.7 feet; thence S 25 deg. E 230.0 feet; thence the following calls and distances: S 70 deg. W 1,340.0 feet; S 9 deg. 30 min. E 595.0 feet; N 85 deg. 30 min. W 250.0 feet; S 3 deg. W 271.0 feet; S 14 deg. E 937.0 feet; N 73 deg. 45 min. W 294.0 feet; S 3 deg. 30 min. W 576.0 feet; N 86 deg. 30 min. W 530.0 feet; N 74 deg. 50 min. W 143.0 feet; S 3 deg. 25 min. W 199.0 feet; S 2 deg. 15 min. E 1,372.0 feet; N 74 deg. W 152.0 feet; N 37 deg. W 850.0 feet; S 78 deg. 45 min. W 683.0 feet; S 38 deg. 44 min. E 589.0 feet; N 86 deg. 45 min. W 622.0 feet; S 3 deg. 02 min. W 900.0 feet,

\*State law reference-Corporate limits, G.S. 160A-21 et seq.

more or less, to an iron stake in Beaver Dam Creek; thence with Beaver Dam Creek the following calls and distances: N 66 deg. 56 min. W 263.0 feet; N 84 deg. 35 min. W 200.0 feet; S 84 deg. 30 min. W 476.0 feet to an iron stake in the point of intersection of the center of Beaver Dam Creek with a small branch; thence with said branch in a generally northwestern direction 935.0 feet, more or less, to an iron stake in the old corporate limits line; thence with the old corporate limits line S 26 deg. 15 min. W 2,118.0 feet crossing highway #274 to an iron stake; thence the following calls and distances: N 70 deg. 45 min. W 1,228.0 feet; S 77 deg. 35 min. W 322.0 feet; N 40 deg. W 150.0 feet; N 15 deg. 30 min. W 24.2 feet; S 60 deg. 10 min. W 124.0 feet; S 25 deg. 30 min. E 190.0 feet; S 38 deg. 23 min. W 1,800.0 feet; N 83 deg. W 1,364.0 feet crossing Old Post Road to an iron stake; thence the following calls and distances: N 5 deg. 15 min. E 660.0 feet; S 86 deg. 45 min. W 476.0 feet; N 85 deg. W 515.0 feet; N 3 deg. 55 min. E 28.0 feet; N 84 deg. 35 min. W 1,461.0 feet; N 1 deg. 30 min. E 204.6 feet; S 85 deg. 30 min. W 720.5 feet; S 77 deg. W 2,008.0 feet to an old corner with Harry Carroll, control corner; thence N 10 deg. W 1,452.0 feet to an iron pin in the center of the Seaboard Airline Railway track; thence with the center of said track in a generally eastern direction 1,250.0 feet to an iron pin; thence N 20 deg. 12 min. W 466.0 feet to a point in the center of the pavement of N.C. highway #150; thence with the center of said highway in a generally eastern direction 516.0 feet to a point in the center of said highway; thence S 16 deg. 15 min. E 218.4 feet; N 72 deg. 01 min. E 200.0 feet; S 10 deg. 58 min. E 465.2 feet to an iron pin in the center of the Seaboard Airline Railway track; thence with the center of said track in a generally eastern direction 2,400.0 feet, more or less, to an iron pin; thence crossing N.C. highway #150 N 27 deg. 09 min. W 1,750.0 feet to an iron stake; thence the following calls and distances: N 55 deg. E 206.0 feet; N 69 deg. 30 min. E 1,693.0 feet; thence N 19 deg. 09 min. E 522.0 feet, crossing Delview Road to an iron stake; thence the following calls and distances: N 27 deg. 39 min. E 1,138.0 feet; S 82 deg. W 723.0 feet; due N 285.0 feet; N 84 deg. E 207.0 feet; N 6 deg. 30 min. W 247.0 feet; N 84 deg. 45 min. E 417.0 feet; N 6 deg. 30 min. W 625.0 feet; N 1 deg. E 196.0 feet; N 42 deg. E 249.0 feet to a point in N.C. highway #274; thence with said highway the following calls and distances: N 45 deg. 45 min. W 100.0 feet; N 43 deg. W 100.0 feet; N 40 deg. W 340.0 feet; thence leaving said highway S 81 deg. 30 min. E 600.0 feet; N 2 deg. 30 min. E 600.0 feet; S 86 deg. 24 min. E 307.0 feet; N 4 deg. 15 min. W 508.0 feet; S 76 deg. 50 min. E 675.0 feet; S 85 deg. 45 min. E 722.0 feet; N 13 deg. 10 min. E 1,036.0 feet;

thence S 80 deg. 15 min. E 632.0 feet crossing Requa Road to an iron stake; thence the following calls and distances: S 8 deg. W 240.0 feet; S 74 deg. 47 min. E 170.0 feet; N 18 deg. 39 min. E 943.0 feet; N 4 deg. 30 min. E 256.0 feet; S 86 deg. 30 min. E 374.0 feet to an iron stake in the center of a small branch; thence with said branch in a generally southern direction 1,552.0 feet to an iron stake, corner of W.T. Robinson; thence N 75 deg. W 801.0 feet; N 82 deg. W 313.0 feet; N 74 deg. 47 min. W 165.0 feet; S 8 deg. W 1,090.0 feet; N 87 deg. 50 min. E 142.0 feet; S 5 deg. W 265.0 feet; S 85 deg. E 2,284.0 feet; and S 4 deg. 43 min. W 150.0 feet to the beginning, containing 1,841.0 acres, more or less.

**Editors Note:** The boundaries of the city have been changed by subsequent annexations.

### Sec. 2.2. Extension of boundaries.

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

**State Law References:** Extension of corporate limits, G.S. 160A-24 et seq.

### Sec. 2.3. Ward boundaries.

The city shall be divided into four wards, bounded as follows:

*First ward.* First ward shall be comprised of all territory within the section of the City which lies on both the south side of Church Street and on the east side of Pink Street. Included shall be all territory within the section of the City, which lies within all of the following: south of Carroll St., and Bills Ave., east of Mountain Street, and west of Pink Street.

*Second ward.* Second ward shall be comprised of all territory within the section of the City which lies on both the south side of Church Street and on the west side of Mountain Street. Included shall be all territory within the section of the City which lies within all of the following: south of Church Street, north of Carroll St. and Bills Ave., east of Mountain St., and west of Pink Street.

*Third ward.* Third ward shall be comprised of all territory within the section of the City which lies on both the north side of Church Street and on the west side of Mountain Street. Included shall be all territory within the section of the City which lies within all of the following: north of Church Street, south of Sixth Street, east of Mountain Street, and west of Pink Street.

*Fourth ward.* Fourth ward shall be comprised of all territory within the section of the City which lies on both the north side of Church Street and on the east side of Pink Street. Included shall be all territory within the section of the City which lies within all of the following: north of Sixth Street, east of Mountain Street, and west of Pink Street. (Amended 4-26-93)

**Editors Note:** A resolution adopted on April 26, 1993, amended the boundaries of the local electoral districts.

**Sec. 2.4. Alteration of ward boundaries.**

In addition to the power granted by G.S. 160-2(11), the city council shall have the power at any time to adjust or alter the boundaries of the several wards for the purpose of maintaining substantial equality of population among the wards. In the event any member of the city council shall become domiciled in a different ward as a result of adjustment or alteration of ward boundaries, he shall continue as a member from the ward which he was elected to represent until the expiration of the term for which he was elected. In the event any member of the city council shall move out of the limits of the ward from which he was elected, his office shall then become vacant and the same shall be filled as provided herein.

**ARTICLE III.**

**MAYOR AND CITY COUNCIL\***

\* **State Law References:** Mayor and council, G.S. 160A-66 et seq.

**Sec. 3.1. Composition of city council.**

The city council shall consist of four members, one from each ward, to be elected by and from the qualified voters of the city voting at large in the manner provided in article IV.

**Sec. 3.2. Mayor and mayor pro tempore.**

The mayor shall be elected by and from the qualified voters of the city voting at large in the manner provided in article IV. The mayor shall be the official head of the city government and shall preside at all meetings of the city council. The mayor shall not have the power to vote on questions coming before the council except in case of a tie. 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 city. The city council shall choose one of its number each year at its regular December meeting 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 may serve consecutive one-year terms at the pleasure of the remaining members of the council. (Amended 1-12-04)

**Sec. 3.3. Qualifications and terms of councilmembers and mayor; vacancies in council and office of mayor.**

(a) The members of the city council 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 qualified.

(b) No person shall be eligible to be a candidate or be elected as mayor or as a member of the city council or to serve in such capacity, unless he is a resident and a qualified voter of the city, having resided within the city and in the ward from which he is elected for a period of twelve (12) months next preceding his election.

(c) In the event a vacancy occurs in the office of mayor, the council shall by majority vote appoint some qualified person to fill the same until the next election. Any vacancy in the office of councilman shall be filled by majority vote of the remaining members of the council until the next election.

**Sec. 3.4. Organization of council; oaths of office.**

The city council shall meet and organize for the transaction of business at a time established by ordinance, following each biennial election and prior to January 1. Before entering upon their offices, the mayor and each councilman shall take, subscribe, and have entered upon the minutes of the council the following oath of office:

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of \_\_\_\_\_, on which I am about to enter, according to my best skill and ability, so help me, God.

**Sec. 3.5. Meetings of council.**

(a) The city council 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 council, 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 council shall be open to the public. The council shall not by executive session or otherwise formally consider or vote upon any question in private session.

**State Law References:** Meetings of council, G.S. 160A-71.

**Sec. 3.6. Quorum; voting.**

(a) A majority of the members elected to the city council 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 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.

**State Law References:** Quorum, G.S. 160A-74.

**Sec. 3.7. Ordinances and resolutions generally.**

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 council. The enacting clause of all ordinances shall be: "Be it ordained by the City Council of the City of Cherryville." All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

**ARTICLE IV.**

**ELECTION PROCEDURE\***

\* **State Law References:** Municipal elections, G.S. 163-279 et seq.

**Sec. 4.1. Regular municipal elections; filling vacancies in council.**

Regular municipal elections shall be held on Tuesday after the first Monday in November of each odd-numbered year. In each election year, there shall be elected by the qualified voters of the city voting at large a mayor to serve for a term of two years and two councilmen to serve for terms of four years, or until their successors are elected and qualified; provided, however, that if one or more vacancies shall have occurred during the first two years of a term, then a councilman shall be elected to fill the remaining two years of such term or terms.

**Editors Note:** G.S. 163-279 now provides that municipal elections be held in November.

**Sec. 4.2. Voting; votes necessary for election.**

Each voter shall be entitled to vote for one candidate for mayor and for as many candidates for councilman as there are offices to be filled. The candidate for mayor who receives the largest number of votes cast for mayor shall be declared elected. The two candidates for councilman who receive the largest number of votes cast for councilman shall be declared elected for terms of four years. If, by reason one or more vacancies to be filled at any election, more than two councilmen are elected, then all those elected except the two receiving the largest numbers of votes shall be declared elected for terms of two years.

**State Law Reference-**Municipal elections, G.S. 163-279 et seq.

**Sec. 4.3. Filing of candidates.**

Each qualified person who would offer himself as a candidate for the office of mayor or councilman shall file with the city 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 in an amount determined by the city council, and shall be substantially in the following form:

I, \_\_\_\_\_, do hereby give notice that I am a candidate for election to the office of \_\_\_\_\_, 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 City of Cherryville, residing at \_\_\_\_\_,

Witness: \_\_\_\_\_ (Signature)  
 \_\_\_\_\_ (Date)

**Editors Note:** By agreement with Gaston County on May 8, 1989, the county board of elections conducts city elections.

**Sec. 4.4. Names on 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.

**Sec. 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.

**Sec. 4.6. Absentee voting.**

Absentee voting shall be allowed in the City of Cherryville if city elections are conducted by a municipal board of elections, and any references in G.S. 163-302 that refer to the county board of elections shall, for the City of Cherryville, refer to the municipal board of elections if city elections are conducted by a municipal board of elections. The state board of elections may adopt rules to regulate this section. (Sess. Laws 1984, ch. 935, § 1)

**ARTICLE V.**

**CITY MANAGER\***

\* **State Law References:** Powers and duties of manager, G.S. 160A-148.

**Sec. 5.1. Appointment; compensation.**

The city council shall appoint an officer whose title shall be city manager and who shall be the chief executive officer of the city and the head of the administrative branch of the city government. The city manager shall be chosen by the council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. At the time of his appointment he need not be a resident of the city, but

shall reside therein during his tenure of office. No person elected as mayor or as a member of the city council shall be eligible for appointment as city manager until one year shall have elapsed following the expiration of the term for which he was elected. The city manager shall serve at the pleasure of the council and shall receive such salary as the council shall fix. In case of absence or disability of the city manager, the council may designate a qualified administrative officer of the city to perform the duties of the manager during such absence or disability.

**Sec. 5.2. Chief administrator; powers.**

The city manager shall be responsible to the city council for the proper administration of all the affairs of the city. As chief administrator, the city manager shall have the power to appoint and remove all officers, department heads and employees in the administrative service of the city, except the city attorney, who shall be appointed as provided in article VI. Neither the mayor nor the city council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the city manager, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city. Except for the purpose of inquiry, the mayor and the city council and its members shall deal with officers and employees in the administrative service only through the city manager, and neither the mayor nor the city council nor any of its members shall give orders or directions to any subordinate of the city manager, either publicly or privately.

**Sec. 5.3. Duties.**

It shall be the duty of the city manager to supervise the administration of the affairs of the city; to see that the ordinances, resolutions and regulations of the city council and the laws of the state are faithfully executed and enforced; to make such recommendations to the city council concerning the affairs of the city as he shall deem expedient; to keep the city council advised of the financial condition and the future financial needs of the city; to attend all meetings of the city council and to prepare and submit to it such reports as he may deem expedient or as may be required of him by the council, and to perform all other duties as may be required of him by the city council.

**ARTICLE VI.****CITY ATTORNEY\***

\* **State Law References:** City attorney, G.S. 160A-173.

**Sec. 6.1. Appointment; qualifications; term; compensation.**

The city council shall appoint a city 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 city during his tenure. The city attorney shall serve at the pleasure of the council and shall receive such compensation as the council shall determine.

**Sec. 6.2. Duties.**

It shall be the duty of the city attorney to prosecute and defend suits for and against the city; to advise the mayor, city council, city manager and other city officials with respect to the affairs of the city; to draw all legal documents relating to the affairs of the city; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the city may be concerned; to attend all meetings of the city council; and to perform such other duties as may be required of him by virtue of his position as city attorney.

**ARTICLE VII.****ADMINISTRATIVE OFFICERS AND EMPLOYEES****Sec. 7.1. Appointment and duties of city clerk.**

The city manager may appoint a city clerk to keep a journal of the proceedings of the city council and to maintain in a safe place all records and documents pertaining to the affairs of the city, and to perform such other duties as may be required by law or as the city manager may direct.

**Sec. 7.2. Appointment and duties of the finance director**

The city manager may appoint the finance director to be the custodian of all moneys of the city and shall keep and preserve the same in such place or places

as shall be determined by the city council. He shall countersign all vouchers issued by the city accountant and shall pay out money only on such vouchers. In addition, he shall perform all other duties as may be prescribed by law or assigned to him by the city manager.

**Sec. 7.3. Appointment and duties of city tax collector.**

The city manager may appoint a tax collector to collect all taxes, licenses, fees and other moneys belonging to the city, subject to the provisions of this Charter and the ordinances of the city, 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.

**Sec. 7.4. Appointment and duties of city accountant.**

The city manager may appoint a city accountant to perform the duties of the accountant as required by the Municipal Fiscal Control Act.

**Sec. 7.5. Consolidation of positions and functions.**

The city manager may, with the approval of the city council, consolidate any two or more of the positions of city clerk, city treasurer, city tax collector, and city 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 city manager may also, with the approval of the city council, himself perform all or any part of the functions of any of the named offices, in lieu of appointment of other persons to perform the same.

**ARTICLE VIII.****FINANCE AND TAXATION\***

\* **State Law References:** Municipal taxation, G.S. 160A-206--160A-214.

**Sec. 8.1. Custody, accrual of interest and disbursement of city money.**

All moneys received by the city for or in connection with the business of the city government shall be paid promptly into the city depository. Such institution shall be 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 city shall accrue to the benefit of the city. All moneys belonging to the city shall be disbursed only in accordance with the provisions of the Municipal Fiscal Control Act.

**Sec. 8.2. Independent audit of city books and accounts.**

As soon as practicable after the close of each fiscal year, an independent audit shall be made of all books and accounts of the city 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 city or of any of its officers. The city council shall select the public accountant, and the results of such audit shall be made available for inspection by any interested citizen of the city, and may be published if so ordered by the city council.

**ARTICLE IX.**

**DISPOSAL OF PROPERTY\***

\* **State Law References:** Sale and disposition of property, G.S. 160A-265 et seq.

**Sec. 9.1. Surplus real property.**

Subject to the provisions of subsection (c) of this section, the mayor and city council 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 council has declared to be surplus, in the following manner:

**Editors Note:** G.S. 160-59 was repealed by section 2 of Session Laws 1971, chapter 698. See now G.S. 160A-266.

- (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); or at public auction, if so determined by the city council.
- (b) Without bids or advertisement, by exchange for real property of like or greater market value.
- (c) No sale or exchange of real property

authorized by this section shall be ordered by the mayor and city council 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 city a notice of their intention to consider such sale or exchange.

**Sec. 9.2. Surplus personal property.**

The city council shall have power to dispose of surplus property consistent with G.S. 160A-266.

**Editors Note:** G.S. 160-59 was repealed by section 2 of Session Laws, chapter 698. See now G.S. 160A-266.

the minutes of the council; or at public auction, if so determined by the city council.

**ARTICLE X.**

**POLICE\***

\* **State Law References:** Law enforcement, G.S. 160A-281 et seq.

**Sec. 10.1. Jurisdiction.**

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

(b) The jurisdiction of the police force is hereby extended to include all city 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.

§ 10.1

**Sec. 10.2. Service of process.**

Every police officer of the city shall have power to execute, anywhere within Gaston County, any writ,

precept, or process, either civil or criminal, which shall be directed to him or to the chief of police by any court of the state.

### **Sec. 10.3. Residence.**

No person shall be eligible to be a candidate for employment as a police officer, or to continue as such, unless he is a resident of the city or unless he agrees to become a resident of the city upon his employment.

**Editors Note:** This provision has been changed inasmuch as a police officer is presently required to live within five miles of the city limits.

### **Sec. 10.4. Effect of ordinance on city property.**

All applicable ordinances of the city shall have full force and effect upon and within all property and facilities owned by the city, whether located within or outside the corporate limits.

## **ARTICLE XI.**

### **REGULATORY POWERS**

#### **Sec. 11.1. Subdivision of land.**

Notwithstanding the provisions of G.S. 160-227.1, the city council is hereby authorized to adopt an ordinance regulating the subdivision of land in accordance with the provisions of G.S. 160-226 through 160-227, inclusive. Such ordinance may also provide for the more orderly development of subdivisions by requiring the construction of community service facilities, including water lines; sewer lines; street paving, curbing, and guttering; and street and storm drainage facilities in accordance with city standards and specifications and to assure compliance with such requirement, the ordinance may require the posting of bond or such other method as will offer guarantee of compliance.

**Editors Note:** G.S. 160-227.1 was repealed by section 6 of Session Laws 1969, chapter 1010. G.S. 160-226 through 160-227 were repealed by section 2 of Session Laws 1971, chapter 698. See now G.S. 160A-371 to 160A-376.

#### **Sec. 11.2. Enforcement of regulatory codes outside city limits.**

The city council 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 city 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 city council is hereby authorized to enforce in such area the North Carolina State Building Code, the North Carolina State Plumbing Code, and the North Carolina Uniform Residential Building Code, all as published by the North Carolina Building Code Council. Such enforcement powers shall include the power to require that prior to the beginning of any construction, reconstruction, or alteration of any building or structure or any part or system thereof within such area, the appropriate permit or permits be obtained from the city; provided, that the city council 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.

**Editors Note:** Article 15 of chapter 160 of the General Statutes was repealed by section 2 of Session Laws 1971, chapter 698. See now G.S. 160A-441 to 160A-450. G.S. 160-200(8) was repealed by section 2 of Session Laws 1971, chapter 698. See now G.S. 160A-443.

## **ARTICLE XII.**

### **CLAIMS AGAINST THE CITY**

#### **Sec. 12.1. Presentation; suits; notice.**

(a) All claims or demands against the City of Cherryville arising in tort or in contract shall be presented to the city council 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 city on account of damages to or compensation for real property taken or used by the city for any public purpose, or for the ejectment of the city 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 of friend, [sic] shall have given notice in writing to the city council of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the happening or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the happening or the infliction of the injury complained of, whichever is the longer period. The city may at any time request the appointment of a next friend [sic] to represent any person having a potential claim against the city and known to be suffering from physical or mental incapacity.

#### **Sec. 12.2. Settlement by city manager.**

The city manager may with the approval of the city council, settle claims against the city for (1) personal injuries or damages to property when the amount involved 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 city manager pursuant to this section shall constitute a complete release of the city 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 city attorney.