

CHARTER
BLACK MOUNTAIN, NORTH CAROLINA

Table of Contents

ARTICLE I. – CORPORATE POWERS.....	1
Section 1.1. Incorporation and corporate powers.....	1
Section 1.2. Exercise of powers.....	1
Section 1.3. Corporate limits.....	1
ARTICLE II. – TOWN COUNCIL.....	1
Section 2.1. Creation.....	1
Section 2.2. Filling of vacancies.....	2
Section 2.3. Compensation of mayor and councilmembers.....	2
Section 2.4. Meetings of the town council.....	2
Section 2.5. Mayor and mayor pro tem.....	3
Section 2.6. Rules of the town council.....	3
Section 2.7. Quorum.....	3
Section 2.8. Ordinances and resolutions.....	3
ARTICLE III. – COUNCIL-MANAGER PLAN OF GOVERNMENT.....	4
Section 3.1. Council-manager plan of government.....	4
Section 3.2. Departments and department heads.....	5
Section 3.3. Compensation of personnel.....	5
Section 3.4. Town clerk.....	6
Section 3.5. Duties of town attorney.....	6
Section 3.6. Bonds required.....	6
Section 3.7. Boards and commission.....	6
Section 3.8. Issuance of bonds.....	6
Section 3.9. Rules governing town finances.....	6
Section 3.10. Independent audit.....	6
ARTICLE IV. – MISCELLANEOUS PROVISIONS.....	7
Section 4.1. Oath of office.....	7
Section 4.2. Severability.....	7

ARTICLE I. – CORPORATE POWERS

SECTION 1.1. INCORPORATION AND CORPORATE POWERS

The inhabitants of the Town of Black Mountain, North Carolina, shall continue to be a body politic and corporate under the name of the “Town of Black Mountain” and under that name shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property, real and personal, within or without its boundaries for any municipal purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, hold, manage and control such property as its interests may require; and, except as prohibited by the Constitution of North Carolina or restricted by this Charter, shall have and may exercise all municipal powers, functions, rights, privileges and immunities conferred upon municipal corporations by general law of this state.

SECTION 1.2. EXERCISE OF POWERS

The corporate powers of the Town of Black Mountain shall be vested in and exercised by a mayor, town council and town manager as hereinafter provided, subject to such limitations as may be hereinafter imposed. All powers of the town, whether expressed or implied, shall be exercised in the manner prescribed by this charter, or, if not prescribed therein, then in the manner provided by ordinance or resolution of the town council.

SECTION 1.3. CORPORATE LIMITS

The boundaries of the Town of Black Mountain shall be those existing at the time of the passage of this act [Charter], with such alterations as may be made from time to time in the manner provided by law.

ARTICLE II. – TOWN COUNCIL

SECTION 2.1. CREATION

(A) Except as otherwise provided in this charter all powers of the town shall be vested in a town council comprised of (5) members and a mayor nominated and elected from the town at large in the manner hereinafter provided. The mayor and members of the council shall be qualified voters and residents of the town.

(B) Elections for mayor and councilmembers shall be held on a nonpartisan basis in even-numbered years on the Tuesday after the first Monday in November. The names of the candidates shall be printed on the ballots without reference to any party affiliation, and any qualified voter residing in the town shall be entitled to vote on such ballots. Results shall be determined using the plurality election method in accordance with N.C.G.S. § 163-292, as the same may be amended or renumbered from time to time. Elections shall be held and conducted in accordance with the general laws governing elections for county municipalities.

(C) The term of office of the mayor and councilmembers shall be four years and until their successors are elected and qualified and shall begin on the first Monday of December next following their election. In 2022, and quadrennially thereafter, the mayor and two councilmembers shall be elected to serve four-year terms. In 2024, and quadrennially thereafter, three councilmembers shall be elected to serve four-year terms.

(D) The mayor or any councilmember ceasing to possess any of the qualifications specified in this section, or convicted of crime while in office, shall immediately forfeit office.

SECTION 2.2. FILLING OF VACANCIES

If the elected mayor or an elected councilmember shall fail or refuse to be qualified, or if the holder of any elective office is unable to discharge the duties of such office, or if a vacancy shall otherwise occur in any elective office, such vacancy shall be filled by the remaining members of the council. In the event such vacancy occurs within 135 days of the next general election, the person appointed by the council to fill the vacancy shall serve the remainder of the unexpired term. Otherwise, a successor shall be elected at the next general election and the person appointed to fill the vacancy shall serve only until the elected successor takes office. The elected successor shall then serve the remainder of the unexpired term.

SECTION 2.3. COMPENSATION OF MAYOR AND COUNCILMEMBERS

The mayor and each councilmember shall receive a salary, the amount of which shall be prescribed by ordinance. No ordinance fixing or changing the salary of the mayor or any councilmember shall become effective during the current term of office of the councilmembers enacting such ordinance.

SECTION 2.4. MEETINGS OF THE TOWN COUNCIL

At 6:00 p.m. o'clock on the second Monday of December following a regular municipal election, the town council shall meet at the usual place for holding its meetings and the newly elected members shall assume the duties of office. Before entering upon the duties of their offices, the newly elected mayor and/or councilmembers shall severally make oath before the town clerk or some other person authorized by law to administer oaths to perform faithfully the duties of their respective offices. Thereafter the council shall meet at such times as may be prescribed by ordinance or resolution, but not less frequently than once each month. Special meetings shall be called by the clerk upon the written request of the mayor or two members of the council. Any such notice shall state the subject to be considered at the special meeting and no other subject shall be there considered. All meetings of the council shall be open to the public and the rules of the council shall provide that citizens of the town shall have a reasonable opportunity to be heard at any such meetings in regard to any matter considered thereat; provided, however, that the council may, by a two-thirds vote of all the members, authorize an executive meeting, which may be closed to the public as authorized by law.

SECTION 2.5. MAYOR AND MAYOR PRO TEM.

(A) The mayor shall preside at meetings of the council and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by the general laws of North Carolina, by this charter and the ordinances of the town. The mayor shall be recognized as the head of the town government for all ceremonial purposes, by the courts for serving civil processes, and by the Governor for the purposes of military law. In time of public danger or emergency the mayor shall, if so authorized and directed by vote of the council, take command of the police, maintain order and enforce the law.

(B) At its first meeting in the month of December following a regular municipal election, the council shall choose one of its members as vice mayor, who shall act as mayor pro tem. In case of the absence or disability of the mayor, the mayor pro tem shall act as mayor during the continuance of the absence or disability of the mayor.

SECTION 2.6. RULES OF THE TOWN COUNCIL

The council shall determine its own rules and order of business and keep a journal of its proceedings.

SECTION 2.7. QUORUM

A majority of the members elected to the council shall constitute a quorum to conduct business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the members elected to the council shall be necessary to adopt any ordinances, resolutions, order or vote; except that a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present. No member, including the mayor, shall be disqualified from voting except on matters involving the consideration of his or her own official conduct or when his or her financial interests are involved.

SECTION 2.8. ORDINANCES AND RESOLUTIONS

(A) Ordinances and resolutions shall be introduced to the council in writing.

(B) All ordinances, except ordinances making appropriations and ordinances codifying or rearranging existing ordinances or enacting a code of ordinances, shall be confined to one subject, and the subject, or subjects of all ordinances shall be clearly expressed in the title.

(C) Ordinances making appropriations shall be confined to the subject of appropriations.

(D) The yeas and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the council. The enacting clause of all ordinances shall be: "Be it ordained by the Town of Black Mountain."

(E) Ordinances making the annual tax levy, appropriation ordinances, ordinances and resolutions pertaining to local improvements and assessments, ordinances and resolutions providing for or directing any investigation of town affairs, resolutions requesting information from administrative

offices or directing administrative action shall take effect at the time indicated therein. Except as otherwise prescribed in this charter, all other ordinances and resolutions passed by the council shall take effect at the time indicated therein, but not less than ten days from the date of their passage.

(F) Upon final passage, each ordinance or resolution shall be authenticated by the signature of the mayor and the town clerk and shall be recorded in a book kept for that purpose. Within ten days after final passage, a notice setting forth in brief the substance of each ordinance shall be published or posted at least once in such manner as the council may prescribe.

ARTICLE III. – COUNCIL-MANAGER PLAN OF GOVERNMENT

SECTION 3.1. COUNCIL-MANAGER PLAN OF GOVERNMENT

(A) The plan of government shall be the council-manager plan, with all administrative responsibility and authority vested in a town manager and all legislative and policy making decisions vested in the town council, with the responsibilities and duties of each to be as hereinafter set out.

(B) The council shall appoint a town manager to serve at its pleasure. The town manager shall be appointed solely on the basis of executive and administrative qualifications and need not be a resident of the town or state at the time of appointment. The office of town manager may be held concurrently with other appointive (but not elective) offices pursuant to Article VI, Section 9, of the Constitution of the state of North Carolina.

(C) The town manager shall be the chief administrator of the Town of Black Mountain and shall be responsible to the council for the proper administration of all municipal affairs placed in the manager's charge by the council and shall:

1. shall, in accordance with such general personnel rules, regulations, policies or ordinances as the council may adopt, appoint, suspend or remove all town officers, department heads, and employees whose appointment or removal is not otherwise provided for by law, provided that the manager shall report each appointment or removal to the council at its next meeting unless the council has provided otherwise by resolution;

2. direct and supervise the administration of all departments, offices and agencies of the town, subject to the general direction and control of the council, except as otherwise provided by law;

3. attend all meetings of the council and recommend measures to be acted upon by the council;

4. ensure that all laws of the state, the town charter, and the ordinances, resolutions and regulations of the council are faithfully executed;

5. prepare and submit the annual budget and capital program to the council;

6. annually submit to the council and make available to the public a complete report on the finances and administrative activities of the town as of the end of the fiscal year.

7. make any other reports that the council may require concerning the operations of town departments, offices and agencies subject to his or her direction and control.

8. perform any other duties that may be required or authorized by the council.

(D) The manager may, by letter filed with the town clerk, designate a qualified person to exercise the powers and perform the duties of manager during the temporary absence or disability of the manager. Designation of such acting manager shall be subject to the approval of the council and the council may, during the absence or disability of the manager, revoke that designation at any time and appoint another person to serve until the manager returns or the manager's disability ceases.

(E) When the position of town manager is vacant, the council shall designate a qualified person to exercise the powers and perform the duties of manager until the vacancy is filled.

(F) Neither the mayor or any member of the council shall be eligible for appointment as manager or as acting or interim manager.

(G) The town manager shall be allowed to perform the duties of the office without interference from the mayor, the council, or individual members of the council.
(Amendment adopted by electorate 4-14-86)

SECTION 3.2. DEPARTMENTS AND DEPARTMENT HEADS

(A) The council shall by resolution establish and designate departments of the city and may, from time to time, upon recommendation of the town manager, abolish, restructure, reestablish and otherwise change such departments to promote efficiency in the administration of the town government.

(B) The head of each department shall be known as the director thereof and shall have supervision and control of such department and the activities thereof.

SECTION 3.3. COMPENSATION OF PERSONNEL

(A) The council shall fix or approve the schedule of pay, expense allowances, and other compensation of all personnel, and may adopt position classification plans; any compensation or pay plan may include provisions for payments to personnel on account of sickness or disability.

(B) The town manager shall be responsible for preparing position classification and pay plans for submission to and adoption by the council and for administration of adopted plans.

(C) The council may purchase life, health, and any other forms of insurance for the benefit of all or any class of employees, including employees' spouses and dependents, and may provide other fringe benefits for town personnel.

(D) The council may provide for enrolling town personnel in the Local Government Employees' Retirement System, the Law-Enforcement Officers' Benefit and Relief Fund, or the Firemen's Pension Fund, and may supplement from local funds the benefits provided by such plans.

SECTION 3.4. TOWN CLERK

There shall be a town clerk, selected by the town manager, who shall keep the records of the council, give notice of meetings of the council, keep a journal of the proceedings of the council, and perform such other duties as may be required by law or by the council.

SECTION 3.5. DUTIES OF TOWN ATTORNEY

The council shall appoint a town attorney to serve at its pleasure who shall be its chief legal adviser. The attorney so appointed must be licensed to practice law in the state of North Carolina. The attorney shall attend meetings of the council when requested; give advice in writing, when so requested, to the council, the manager or the director of any department; prosecute or defend all suits or cases to which the town may be a party; prepare all contracts, bonds and other instruments in writing in which the town is concerned and endorse approval of the form and correctness thereof; and perform such other duties of a legal nature as the council may require.

SECTION 3.6. BONDS REQUIRED

Officers and employees of the Town of Black Mountain shall give bonds for the faithful performance of their duties as the council shall by resolution require in amounts adequate to protect the town from loss. The premiums of such bonds shall be paid by the town.

SECTION 3.7. BOARDS AND COMMISSION

The council may by resolution establish, designate, abolish, restructure, reestablish and otherwise change boards and commissions to carry out such duties or functions as the council may require and, unless otherwise provided by general law, shall appoint, suspend and remove members of such boards and commission.

SECTION 3.8. ISSUANCE OF BONDS

The town may issue bonds for the purpose and in the manner prescribed by the general laws of North Carolina for the issuance of bonds by municipalities.

SECTION 3.9. RULES GOVERNING TOWN FINANCES

The council shall, by ordinance or resolution, make rules and regulations governing the receipt and handling of moneys payable to the Town of Black Mountain from all sources and the

deposit of such moneys in designated depositories.

SECTION 3.10. INDEPENDENT AUDIT

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

ARTICLE IV. – MISCELLANEOUS PROVISIONS

SECTION 4.1. OATH OF OFFICE

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

"I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me God."

SECTION 4.2. SEVERABILITY

Determination by a court of competent jurisdiction that a provision of this charter is unconstitutional or otherwise invalid shall apply only to such provision and the remaining provisions of this charter shall remain in effect.