

BLACK MOUNTAIN - CHARTER

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CHARTER

EDITOR'S NOTE – The following Charter is taken in its entirety from H. B. No. 746, enacted by the 1951 General Assembly of the State of North Carolina and duly certified on May 1, 1951. The history note which appears in parenthesis at the end of each section reflects the derivation of the section and any amendatory acts. The word “Article” and the article numbers have been added to the subheadings which appeared in the original Charter. Any other additions or corrections to the Charter or amendatory acts will be enclosed in brackets.

ARTICLE I. CORPORATE POWERS

SEC. 1. INCORPORATION AND CORPORATE POWERS.

The inhabitants of the town of Black Mountain, North Carolina, within the boundaries as established in section three of this charter or as hereafter established in the manner provided by law, shall continue to be a body politic and corporate by name 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 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, the town of Black Mountain shall have and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The following shall be deemed to be a part of the powers conferred upon the town of Black Mountain by this section:

(1) To levy, assess and collect taxes and to borrow money within the limits prescribed by general law; and to levy and collect special assessments for benefits conferred.

(2) To furnish all local public services; to purchase, hire, construct, own, maintain and operate or lease local public utilities; to acquire, by condemnation or otherwise, within or without the corporate limits, property necessary for any such purposes, subject to restrictions imposed by general law for the protection of other communities; and to grant local public utility franchises and regulate the exercise thereof.

(3) To make local public improvements and to acquire by condemnation, or otherwise, property within or without its corporate limits necessary for such improvements; and also to acquire an excess over that needed for any such improvement, and to sell or lease such excess property with restrictions, in order to protect and preserve the improvement.

(4) To issue and sell bonds on the security of any such excess property, or of any public utility owned by the town, or of the revenues thereof, or of both, including in the case of a public utility, if deemed desirable by the town, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate such utility.

(5) To organize and administer public libraries.

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(6) To adopt and enforce within its limits local police, sanitary and other similar regulations not in conflict with general laws.

Except as otherwise provided in this act, the board of aldermen shall have authority to determine by whom and in what manner the powers granted by this section shall be exercised.
(H. B. No. 746, May 1, 1951)

SEC. 2. 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 therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the town of Black Mountain shall have, and may exercise, all powers which, under the Constitution of North Carolina, it would be competent for this charter specifically to enumerate. 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 board of aldermen of the town of Black Mountain.

(H. B. No. 746, May 1, 1951)

SEC. 3. CORPORATE LIMITS.

The corporate limits of the town shall be as follows: Beginning at a stake located at a point 1 mile due north from the center of the Southern Railway depot in Town of Black Mountain, and runs thence South 67 deg. 30 min. East 4,041.1 feet; thence South 22 deg. 30 min. East 4,041.1 feet; thence South 22 deg. 30 min. West 4,041.1 feet; thence South 67 deg. 30 min. West 4,041.1 feet; thence North 67 deg. 30 min. West 4,041.1 feet; thence North 22 deg. 30 min. West 4,041.1 feet; thence North 22 deg. 30 min. East 4,041.1 feet to a stake at the intersection of North Fork Road and Hiawassee Avenue, which said Hiawassee Avenue is shown on a plat recorded in Plat Book 10, Page 27, Buncombe County Registry, to which reference is hereby made; and runs thence along and with the North Fork Road the following courses and distances: North 55 deg. West 152 feet to a stake; North 18 deg. West 500 feet to a stake; thence North 31 deg. 30 min. West 1,080 feet to a stake, said stake being at the intersection of the road known as Walkertown Road; and runs thence along and with said North Fork Road 38 deg. West 133.5 feet to a stake in the Southern margin of an opened fifty foot street; thence along and with said margin of said street South 46 deg. 30 min. West 617 feet to a stake; thence North 83 deg. 30 min. West 406 feet to a stake; thence continuing along the Northwestern margin of said street North 6 deg. 30 min. East 139 feet to a stake; thence North 48 deg. 30 min. West 410 feet to a stake in the Goodson Line; thence South 47 deg. 20 min. West 444 feet to a stake in the Goodson Line; thence South 50 deg. East 300 feet to a stake along the ridge; thence continuing along the said ridge South 7 deg. East 230 feet to a stake; thence South 76 deg. East 230 feet to an 18 inch oak; thence South 425 feet to a stake; thence South 52 deg. 55 min. East 360 feet to a stake; thence South 63 deg. East 495 feet to a stake; thence south 71 deg. East 220 feet to a stake; thence 40 deg. West 400 feet to a stake; thence following the Southwestern margin of Chapel Road 680 feet to a stake; thence South 20 deg. West 172 feet to a stake; thence North 56 deg. 30 min. West 400 feet to a stake; thence South 35 deg. 30 min. West 170 feet to a stake; thence South 2 deg. 30 min. West 120 feet to a stake; thence South 15 deg. 30 min. West 205 feet to a

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stake; thence South 27 deg. 30 min. West 190 feet to a stake; thence South 11 deg. 15 min. West 205 feet to a stake; thence South 48 deg. 45 min. East 120 feet to a stake; thence South 24 deg. West 160 feet to a stake; thence South 50 deg. 55 min. East 250 feet to a stake; thence South 34 deg. 5 min. West 201 feet to a stake; thence North 30 min. West 124 feet to a stake; thence South 49 deg. West 80 feet to a stake in Northwestern margin of Fairway Drive; thence following the Northwestern margin of Fairway Drive 601 feet to the intersection of Hill Top Road; thence following the Northern margin of Hill Top Road 540 feet to the intersection of Allen Mountain Road; thence following the Northeastern margin of Allen Mountain Road 367 feet to a stake; thence North 11 deg. East 120 feet to a stake; thence South 50 deg. 42 min. West 360 feet to a stake; thence South 39 deg. 18 min. East 130 feet to a stake; thence South 28 deg. West 200 feet to a stake; thence South 36 deg. East 325 feet to a stake; thence South 60 deg. 30 min. East 728 feet to a stake thence North 69 deg. 45 min. East 300 feet to a stake; thence North 2 deg. East 358 feet to a stake; thence South 88 deg. East 1,500 feet to the Western margin of Hiawassee Avenue; thence following the Western margin of Hiawassee Avenue approximately 2,250 feet to a stake; thence North 67 deg. 30 min. East 4,041.1 feet to the point of Beginning.

Also the following property:

Beginning at a stake on the Western margin of North Fork Road, said stake being located in the City Limit line, and runs thence North 57 deg. 30 min. East across North Fork Road 133 feet to an iron pin; thence South 81 deg. East 38 feet to a stake; thence North 85 deg. East 38 feet to a stake; thence South 85 deg. East 94 feet to a stake; thence South 80 deg. 30 min. East 55 feet to a stake; thence South 82 deg. East 100 feet to a stake; thence South 83 deg. East 50 feet to a stake; thence North 85 deg. 15 min. East 50 feet to a stake; thence North 61 deg. 45 min. East 100 feet to a stake; thence North 51 deg. 15 min. East 60 feet to a stake; thence North 42 deg. 30 min. East 50 feet to a stake; thence North 18 deg. 30 min. East 45 feet to a stake; thence North 13 deg. 30 min. East 180 feet to a stake; thence North 9 deg. 30 min. East 165 feet to a stake; thence North 3 deg. East 108 feet to a stake; thence North 8 deg. East 121 feet to an iron pin; thence North 84 deg. West 377 feet to an iron pin; thence South 46 deg. 30 min. West 475 feet to an iron pin; thence South 61 deg. 15 min. East 189 feet to an iron pin and being in the Northwestern margin of Mountain Laurel Acres Road; thence following said road South 32 deg. 45 min. West 185 feet to a stake; thence South 43 deg. 32 min. West 181 feet to a stake located on the Western margin of North Fork Road and the City Limit line; thence South 41 deg. East 30 feet to the point of beginning.

(H. B. No. 1312, June 25, 1969)

Editor's note – Sec. 3 above, setting forth the corporate limits replaces former H. B. No. 746, May 1, 1951.

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ARTICLE II. BOARD OF ALDERMEN

SEC. 4. CREATION, SALARY AND COMPOSITION OF MAYOR AND BOARD OF ALDERMEN.

Except as otherwise provided in this charter all powers of the town shall be vested in a board of aldermen of (5) members and a mayor nominated and elected from the town at large in the manner hereinafter provided. The term of office of the mayor and board of aldermen shall be for two years and until their successors are elected and qualified, and shall begin on the first Tuesday of June next following their election. If a vacancy occurs in the office of mayor or alderman, it shall be filled for the remainder of the unexpired term by the remaining members of the board of aldermen. Each member of the board of aldermen shall receive a salary the amount of which shall be prescribed by ordinance. Provided, however, that the present mayor and members of the board of aldermen shall continue to receive the same salary until the same is changed as herein outlined. No ordinance fixing or changing the salary of members of the board of aldermen shall become effective during the current term of office of the members of the board of aldermen enacting such ordinance. Members of the board of aldermen shall be qualified electors of the town. A member of the board of aldermen ceasing to possess any of the qualifications specified in this section, or convicted of crime while in office, shall immediately forfeit his office.

(H. B. No. 746, May 1, 1951)

SEC. 5. MEETINGS OF THE BOARD OF ALDERMEN.

At 7:30 p.m. o'clock on the first Tuesday of June following a regular municipal election the board of aldermen shall meet at the usual place for holding its meetings and the newly elected members shall assume the duties of office. Thereafter the board of aldermen 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 board of aldermen. 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 board of aldermen and of committees thereof shall be open to the public, and the rules of the board of aldermen 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; but the board of aldermen or a committee thereof may by a two-thirds vote of all the members authorize an executive meeting.

(H. B. No. 746, May 1, 1951)

SEC. 6. MAYOR AND MAYOR PRO TEM.

At its first meeting in the month of June following a regular municipal election the board of aldermen shall choose one of its members as vice chairman, who shall act as mayor pro tem. The mayor shall preside at meetings of the board of aldermen 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. He shall be

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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 board of aldermen, take command of the police, maintain order and enforce the law. 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.

(H. B. No. 746, May 1, 1951)

SEC. 7. BOARD OF ALDERMEN RULES

The board of aldermen shall be the judge of the election and qualifications of its members and the mayor, and in such cases shall have power to subpoena witnesses and compel the production of all pertinent books, records, and papers; but the decision of the board of aldermen in any such case shall be subject to review by the courts. The board of aldermen shall determine its own rules and order of business and keep a journal of its proceedings.

(H. B. No. 746, May 1, 1951)

SEC. 8. QUORUM.

A majority of the members elected to the board of aldermen shall constitute a quorum to do 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 board of aldermen 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 shall be excused from voting except on matters involving the consideration of his own official conduct or when his financial interests are involved.

(H. B. No. 746, May 1, 1951)

SEC. 9. INTRODUCTION AND PASSAGE OF ORDINANCES AND RESOLUTIONS.

Ordinances and resolutions shall be introduced to the board of aldermen only in written or printed form. 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. Ordinances making appropriations shall be confined to the subject of appropriations. 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 board of aldermen. The enacting clause of all ordinances shall be: "Be it ordained by the Town of Black Mountain."

(H. B. No. 746, May 1, 1951)

SEC. 10. WHEN ORDINANCES AND RESOLUTIONS TAKE EFFECT –EMERGENCY MEASURES.

Ordinances making the annual tax levy, appropriation ordinances, ordinances and resolutions pertaining to local improvements and assessments, ordinances and resolutions

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providing for or directing any investigation of town affairs, resolutions requesting information from administrative offices or directing administrative action, and emergency measures shall take effect at the time indicated therein. Except as otherwise prescribed in this charter, all other ordinances and resolutions passed by the board of aldermen shall take effect at the time indicated therein, but not less than ten days from the date of their passage. An emergency measure is an ordinance or resolution to provide for the immediate preservation of the public peace, property, health or safety, in which the emergency claimed is set forth and defined in a preamble thereto. The affirmative vote of at least two members of the board of aldermen shall be required to pass any ordinance or resolution as an emergency measure. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure. No situation shall be declared an emergency by the board of aldermen except as defined in this section, and it is the intention of this charter that such definition shall be strictly construed by the courts.

(H. B. No. 746, May 1, 1951)

SEC. 11. AUTHENTICATION AND PUBLICATION OF ORDINANCES AND RESOLUTIONS.

Upon its 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 board of aldermen may prescribe.

(H. B. No. 746, May 1, 1951)

ARTICLE III. NOMINATIONS AND ELECTIONS

SEC. 12. MUNICIPAL ELECTIONS.

The regular election for the choice of mayor and members of the board of aldermen shall be held on Tuesday following the first Monday in May in odd numbered years. The board of aldermen may by resolution order a special election, fix the time for holding the same, and provide all means for holding such special election.

(H. B. No. 746, May 1, 1951)

SEC. 13. REGULATIONS OF ELECTIONS.

All elections shall be conducted in accordance with the general state laws relating to municipal elections, except as otherwise provided herein.

(H. B. No. 746, May 1, 1951)

SEC. 14. NOMINATIONS.

Any qualified elector of the town may be nominated for mayor or the board of aldermen by petition of any five electors of the town who shall be designated as his sponsors. No elector

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shall sign more than one such petition, and should an elector do so, his signature shall be void as to the petition or petitions last filed. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the same. Nomination petitions shall be filed with the town clerk not earlier than thirty days nor later than five days before the election and shall be in the following form:

“We, the undersigned five electors of the Town of Black Mountain hereby nominate and sponsor _____ whose residence is _____ for the office of _____ to be voted for at the election to be held on the _____ of _____, and we individually certify that we are qualified to vote for a candidate for _____ and that we have not signed any other nominating petition therefor.

Name _____ Street and Number _____
Name _____ Street and Number _____
Name _____ Street and Number _____
Name _____ Street and Number _____
Name _____ Street and Number _____

Acceptance of Nomination

I hereby accept the nomination for _____ and agree to serve if elected.

Signature of candidate _____

Date of Filing _____

This petition is filed by _____ whose address is _____ Street.”

The town clerk shall take and preserve the name and address of the person by whom each nomination is filed. No nomination petition shall be accepted unless accompanied by a signed acceptance of the nomination. Any candidate may withdraw his nomination not later than the last day for filing nomination papers by filing a notice of the withdrawal with the town clerk. Within five days after the filing of a nomination petition the town clerk shall notify the candidate nominated and the person by whom the petition was filed whether or not the petition is found to be signed by the required number of qualified voters. If a petition is found insufficient, the town clerk shall return it immediately to the person who filed it with a statement certifying wherein the petition is found insufficient. Within the regular time for filing petitions a new petition may be filed for the same candidate. The petition of each candidate nominated to be mayor or a member of the board of aldermen shall be preserved by the town clerk until the expiration of the term of office for which he has been nominated.

(H. B. No. 745, May 1, 1951)

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Editor's note – On September 13, 1951, in regular meeting, a Resolution was adopted to require that conduct of all future registrations and elections be under the supervision and control of the Buncombe County Board of Elections, including the looseleaf registration system and the use of voting machines as provided and used by the County of Buncombe and without additional charge other than as provided by the Charter and Ordinances of the Town of Black Mountain.

SEC. 15. BALLOTS.

The full names of candidates nominated for mayor and board of aldermen in accordance with the provisions of this charter, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots in the alphabetical order of the surnames in rotation without any party designation. There shall be printed as many sets of ballots as there are candidates. Each set of ballots shall begin with the name of a different candidate, the other names being arranged thereafter in regular alphabetical order, commencing with the name next in alphabetical order after the one that stands first on such set of ballots. When the last name is reached in alphabetical order it shall be followed by the name that begins with the first letter represented in the list of names and by the others in regular order.

(H. B. No. 746, May 1, 1951)

Editor's note – See note following § 14.

SEC. 16. ELECTION OF MAYOR AND BOARD OF ALDERMEN.

All members of the board of aldermen shall be elected at large. Every voter shall be entitled to vote for one candidate for mayor and for as many candidates as there are members to be elected to the board of aldermen. All candidates up to the number to be elected, who receive the largest number of votes, shall be declared elected.

(H. B. No. 746, May 1, 1951)

ARTICLE IV. ADMINISTRATIVE SERVICE

SEC. 17. APPOINTMENT OF OFFICERS AND EMPLOYEES.

The board of aldermen may appoint a town clerk, a treasurer, a tax collector, an accountant, a town attorney, a chief of police, a fire chief and such other officers and employees as may be necessary, none of whom need be a resident of the town at the time of appointment: Provided, that the board of aldermen may appoint one person to fill any two or more such positions and assign such title to the office as they deem best. Such employees or officers shall serve at the pleasure of the board of aldermen, and shall perform such duties as may be prescribed by the board of aldermen. The board of aldermen shall fix all salaries, prescribe bonds and require such oaths as they may deem necessary.

(H. B. No. 746, May 1, 1951)

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SEC. 18. TOWN CLERK.

The board of aldermen shall choose a town clerk. The town clerk shall keep the records of the board of aldermen and perform such other duties as may be required by law or the board of aldermen.

(H. B. No. 746, May 1, 1951)

SEC. 19. DUTIES OF TOWN ATTORNEY.

The attorney shall be an attorney at law who is a licensed practicing attorney in the state of North Carolina. He shall be the chief legal adviser of and attorney for the town and all departments in matters relating to their official powers and duties. It shall be his duty, either personally or by such assistants as he may designate, to perform all services incident to the department of law; to attend all meetings of the board of aldermen when requested; to give advice in writing, when so requested, to the board of aldermen or the director of any department; to prosecute or defend, as the case may be, all suits or cases to which the town may be a party; to prepare all contracts, bonds and other instruments in writing in which the town is concerned, and to endorse on each his approval of the form and correctness thereof; and to perform such other duties of a legal nature as the board of aldermen may require. In addition to the duties imposed upon the town attorney by this charter or required of him by ordinance or resolution of the board of aldermen he shall perform any duties imposed upon the chief legal officers of municipalities by law.

(H. B. No. 746, May 1, 1951) (Amendment adopted by electorate, 12-8-75)

SEC. 20. DUTIES OF TOWN ACCOUNTANT.

The town accountant shall prepare the budget in accordance with the general local government laws of North Carolina relating to the preparation of municipal budgets. He shall have authority and shall be required: To maintain accounting control over the finances of the town government, for which purpose he is empowered to operate a set of general accounts embracing all the financial transactions of the town, and such subsidiary accounts and cost records as may be required by ordinance by the board of aldermen for purposes of administrative direction and financial control; to prescribe the forms of receipts, vouchers, bills, claims to be filed by all departments and agencies of the town government; to examine and approve all contracts, orders and other documents by which the town incurs financial obligations, having ascertained before approval that moneys have been duly appropriated and allotted to meet such obligations and will become available when obligations have become due and payable; to inspect and approve all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the town government and to determine the regularity and correctness of such claims, demands, or charges; to make monthly reports on all receipts and expenditures of the town government to the mayor and board of aldermen and to take monthly reports on funds, appropriations, allotments, encumbrances, and authorized payments to the mayor, the board of aldermen, and the head of the department or agency directly concerned; to inspect and audit any accounts or records of financial transactions which may be maintained by any department or agency of the town government apart from or subsidiary to the general accounts; and to perform

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such other duties pertaining to the financial records of the town government as the board of aldermen may require by ordinance.

(H. B. No. 746, May 1, 1951)

SEC. 21. DUTIES OF TOWN TAX COLLECTOR.

Tax collector shall collect all taxes, licenses, fees, and other moneys belonging to the town government, subject to the provisions of this charter and ordinances enacted thereunder, and he shall diligently comply with and enforce the general laws of North Carolina relating to collection, sale and foreclosure of taxes by municipalities. It shall be the duty of the tax collector to deposit daily in the town depository all money belonging to the town.

(H. B. No. 746, May 1, 1951)

SEC. 22. DUTIES OF TOWN TREASURER.

The treasurer, if any, shall have custody of and shall disburse all moneys belonging to the town government subject to the provisions of this charter and ordinances enacted thereunder; shall have custody of all investments and invested funds of the town or in possession of the town in a fiduciary capacity, and shall keep a record of such investments, and shall have custody of all bonds and certificates of town indebtedness including such bonds and certificates unissued or cancelled, and the receipt and delivery of town bonds and certificates for transfer, registration, or exchange.

(H. B. No. 746, May 1, 1951)

SEC. 23. CUSTODY OF TOWN MONEY.

All moneys received by any department or agency of the town for or in connection with the business of the town government shall be paid promptly into the town depository. Such institution shall be designated by the board of aldermen in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by statute. All interest on moneys belonging to the town shall accrue to the benefit of the town government. All moneys belonging to the town government shall be disbursed only on vouchers signed by the town treasurer and countersigned by the mayor.

(H. B. No. 746, May 1, 1951)

SEC. 24. 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.

(H. B. No. 746, May 1, 1951)

SEC. 25. PURCHASE PROCEDURE.

Before making any purchase or contract for supplies, materials, equipment or contractual services, opportunity shall be given for competition, under such rules and regulations, and with such exceptions, as the board of aldermen may prescribe by ordinance. All expenditures for

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supplies, materials, equipment, or contractual services involving more than one thousand dollars, (\$1,000.00) shall be made on a written contract, and such contract shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by ordinances.
(H. B. No. 746, May 1, 1951)

SEC. 26. CONTRACTS FOR TOWN IMPROVEMENTS.

Any town improvement costing more than one thousand dollars (\$1,000.00) shall be executed by contract except where such improvement is authorized by the board of aldermen to be executed directly by a town department in conformity with detailed plans, specifications and estimates. All such contracts for more than one thousand dollars (\$1,000.00) shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by ordinance, provided the board of aldermen shall have the power to reject all bids and advertise again. Alterations in any contract may be made when authorized by the board of aldermen.
(H. B. No. 746, May 1, 1951)

SEC. 27. CONTRACTS EXTENDING BEYOND ONE YEAR.

No contract involving the payment of money out of the appropriations of more than one year (other than renewals of continuing appropriations), shall be made for a period of more than ten years; nor shall any such contract be valid unless made or approved by ordinance. No ordinance providing for such a contract shall be valid unless notice of the intention to pass the same were published in a newspaper of general circulation within the town at least ten days before its passage by the board of aldermen.
(H. B. No. 746, May 1, 1951)

SEC. 28. 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 board of aldermen, 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.
(H. B. No. 746, May 1, 1951)

ARTICLE V. MISCELLANEOUS PROVISIONS

SEC. 29. PUBLICITY OF RECORDS.

All records and accounts of every office and department of the town shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under reasonable regulations established by the board of aldermen, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.
(H. B. No. 746, May 1, 1951)

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SEC. 30. PERSONAL INTEREST.

Neither the mayor nor any member of the board of aldermen nor any officer or employee of the town shall have a financial interest, direct or indirect, in any contract with the town, or be financially interested, directly or indirectly, in the sale to the town of any land, materials, supplies or services, except on behalf of the town as an officer or employee. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the town found guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge express or implied of the person or corporation contracting with the town shall render the contract voidable by the board of aldermen.

(H. B. No. 746, May 1, 1951)

SEC. 31. 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 solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of North Carolina, that I will, in all respects, observe the provisions of the charter and ordinances of the Town of Black Mountain and will faithfully discharge the duties of the office of _____.”

(H. B. No. 746, May 1, 1951)

SEC. 32. CONTINUANCE OF CONTRACTS.

All contracts entered into by the town, or for its benefit, prior to the taking effect of this charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or charter provisions existing at the time this charter takes effect may be carried to completion in accordance with the provisions of such existing laws and charter provisions.

(H. B. No. 746, May 1, 1951)

ARTICLE VI. COUNCIL-MANAGER PLAN OF GOVERNMENT.

SEC. 33. COUNCIL-MANAGER PLAN OF GOVERNMENT.

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

(B) The board of aldermen shall appoint a town manager to serve at its pleasure. The town manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the town or state at the time of his appointment.

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The office of town manager is an office that 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. He shall be responsible to the Board of Aldermen for administering all municipal affairs placed in his charge by the Board, and shall have the following powers and duties:

(1) He shall appoint and suspend or remove all city officers and employees not elected by the people, and whose appointment or removal is not otherwise provided for by the law, except the town attorney and town auditor, in accordance with such general personnel rules, regulations, policies or ordinances as the board of aldermen may adopt.

(2) He shall direct and supervise the administration of all departments, offices and agencies of the Town, subject to the general direction and control of the Board, except as otherwise provided by law.

(3) He shall attend all meetings of the board of aldermen and recommend any measures that he deems expedient.

(4) He shall see that all laws of the state, the town charter, and the ordinances, resolutions and regulations of the Board are faithfully executed within the Town.

(5) He shall prepare and submit the annual budget and capital program to the Board.

(6) He shall annually submit to the board 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) He shall make any other reports that the board may require concerning the operations of town departments, offices and agencies subject to his direction and control.

(8) He shall perform any other duties that may be required or authorized by the board.

(D) During the temporary absence or disability of the town manager, the board of aldermen may designate a qualified person to exercise the powers and perform the duties of manager.

(E) When the position of town manager is vacant, the board 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 board of aldermen shall be eligible for appointment as manager or acting or interim manager.

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(G) The town manager shall be selected solely for his ability to perform the duties of his position and he shall be allowed to perform those duties without interference from the mayor and board of aldermen or individual members of the board.

(Amendment adopted by electorate 4-14-86)

ARTICLE VII. IMPLEMENTATION OF STAGGERED TERMS

SEC. 34. FOUR-YEAR STAGGERED TERMS FOR THE MAYOR AND MEMBERS OF THE BOARD OF ALDERMEN.

Section 1. Pursuant to G. S. 160A-101 and 160A-102, the Charter of the Town of Black Mountain, as set forth in Chapter 160A of the North Carolina General Statutes, as amended, is hereby further amended to provide that the Mayor and members of the Black Mountain Board of Aldermen shall hereafter be elected for four-year terms on a staggered basis as set forth in Section 2 below.

Section 2. At the regular municipal election to be held in 2001, the Mayor and the two candidates for the office of Alderman who receive the highest number of votes shall be elected for four-year terms, while the three candidates for the office of Alderman who receive the next highest number of votes shall be elected for two-year terms. At the regular municipal election to be held in 2003, and every four years thereafter, three members of the Board of Aldermen shall be elected to serve for four-year terms. At the regular municipal election to be held in 2005, and every four years thereafter, the Mayor and two members of the Board of Aldermen shall be elected to four-year terms.

Section 3. This ordinance shall be effective only upon approval by a vote of the people. A special election for the purpose of submitting the ordinance to a vote shall be held as provided by resolution also adopted this day. (November 2, 1999 - Election Day)
(Ord. 0-99-14, passed 08-09-99)