

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 73
HOUSE BILL 214

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF
TARBORO.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Tarboro is revised and consolidated to read:

"THE CHARTER OF THE TOWN OF TARBORO.

"ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Tarboro, North Carolina in Edgecombe County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Town of Tarboro', hereinafter at times referred to as the 'Town'.

"Sec. 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Tarboro specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Sec. 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries and the boundaries of the wards therein, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits or wards pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Edgecombe County Register of Deeds and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Sec. 2.1. **Town Governing Body; Composition.** The Mayor and the Town Council, hereinafter referred to as the 'Council', shall be the governing body of the Town.

"Sec. 2.2. **Town Council; Composition; Terms of Office.** The Council shall be composed of eight members, one to be elected by and from the qualified voters of each ward, for staggered terms of four years or until their successors are elected and qualified.

"Sec. 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years or until his successor is elected and qualified. The Mayor shall be the official head of the Town government and preside at

meetings of the Council, shall have the right to vote only when there is an equal division on any question or matter before the Council, and shall exercise the powers and duties conferred by law or as directed by the Council.

"Sec. 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Council.

"Sec. 2.5. **Meetings; Quorum.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law. The quorum provisions of G.S. 160A-74 apply.

"Sec. 2.6. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Council members shall be in accordance with general law. Vacancies that occur in any elective office of the Town shall be filled by majority vote of the remaining members of the Council and shall be filled for the remainder of the unexpired term, despite the contrary provisions of G.S. 160A-63.

"Sec. 2.7. **Voting; Ordinances and Resolutions.** Official actions of the Council and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The yeas and nays shall be taken upon all bond, budget, and franchise ordinances and entered upon the minutes of the Council, and shall likewise be taken and entered on other matters if called for by the Mayor or any two members of the Town Council.

"ARTICLE III. ELECTIONS.

"Sec. 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Sec. 3.2. **Ward Boundaries.** The Town shall be divided into eight wards. The ward boundaries are those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with general law. Notwithstanding the contrary provision of G.S. 160A-59, in the event any member of the Town Council shall be domiciled in a different ward as a result of the adjustment, alteration, or revision of ward boundaries, he shall continue as a member from the ward he was elected to represent until the expiration of the term for which he was elected.

"Sec. 3.3. **Election of Mayor.** A Mayor shall be elected in the regular municipal election in 1997 and each four years thereafter.

"Sec. 3.4. **Election of Council Members.** In the regular municipal election in 1995, a Council member shall be elected by and from each of the Second, Fourth, Sixth, and Eighth Wards. In the regular municipal election in 1997, a Council member shall be elected by and from each of the First, Third, Fifth, and Seventh Wards. Four Council members shall be elected in each regular municipal election thereafter, as the respective terms expire.

"Sec. 3.5. **Special Elections and Referendums.** Special elections and referendums may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. TOWN MANAGER.

"Sec. 4.1. **Form of Government.** The Town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. **Town Manager; Appointment; Powers and Duties.** The Council shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Council, so far as authorized by general law.

"Sec. 4.3. **Residency.** At the time of his appointment, the Town Manager need not be a resident of the Town, but shall reside therein during his tenure of office.

"Sec. 4.4. **Eligibility of Elected Officials.** No person elected as Mayor or as a member of the Town Council shall be eligible for appointment as Town Manager until one year shall have elapsed following the expiration of the term for which he was elected.

"Sec. 4.5. **Absence or Disability.** In case of the absence or disability of the Town Manager, the Council may designate a qualified administrative officer of the Town to perform the duties of the Town Manager during such absence or disability.

"Sec. 4.6. **Settlement of Claims by Town Manager.** The Council may authorize the Town Manager to settle claims against the Town for (i) personal injuries or damages to property when the amount involved does not exceed the sum of two thousand five hundred dollars (\$2,500) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) 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 two thousand five hundred dollars (\$2,500) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager pursuant to this section shall constitute a complete release of the Town from any and all damages sustained by the person involved in such settlement in any manner arising out of the incident, occasion, or taking complained of. All such settlements and all such releases shall be approved in advance by the Town Attorney.

"ARTICLE V. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Sec. 5.1. **Town Attorney.** The Town Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Council may direct. The Council may appoint one or more Assistant Town Attorneys to assist the Town Attorney and serve in his absence or incapacity and who shall have the same qualifications and duties as the Town Attorney.

"Sec. 5.2. **Town Clerk.** The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to

give notice of meetings, and to perform such other duties required by law or as the Town Manager may direct. The Town Manager may appoint an Assistant Town Clerk.

"Sec. 5.3. **Tax Collector.** The Town shall have a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Town Manager. Notwithstanding the contrary provisions of G.S. 105-349, the Town Manager is authorized to appoint and remove the Tax Collector and one or more Deputy Tax Collectors.

"Sec. 5.4. **Finance Director.** The Town Manager shall appoint a Finance Director to perform the duties designated in G.S. 159-25 and such other duties as may be prescribed by law or assigned by the Town Manager.

"Sec. 5.5. **Treasurer.** The Town Manager may appoint a Town Treasurer who shall be the custodian of all moneys of the Town and shall keep and preserve the same in such place or places as shall be determined by the Town Council. He shall countersign all vouchers issued by the Finance Director 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 by the Town Manager. The Town Manager may appoint an Assistant Treasurer.

"Sec. 5.6. **Consolidation of Functions.** The Town Manager may, with the approval of the Town Council, consolidate any two or more of the positions of Town Clerk, Finance Director, Treasurer, and Tax Collector, 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 Town Manager may also, with the approval of the Town Council, appoint a single employee to perform all or any part of the functions of any of the named positions, in lieu of appointing several persons to perform the same. However, the positions of Finance Director and Treasurer may not be held by the same person.

"Sec. 5.7. **Other Administrative Officers and Employees.** The Council may authorize other positions to be filled by appointment by the Town Manager, and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Sec. 5.8. **Manager's Authority; Role of Elected Officials.** As chief administrator, the Town Manager shall have the power to appoint and remove all officers, department heads and employees of the Town, except the Town Attorney and any Assistant Town Attorneys, who shall be appointed as provided in Section 5.1 of this Charter. Neither the Mayor nor the Town Council nor any of its committees or members shall direct or request the Town Manager to appoint any person to office or remove any person from office, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the Town. Except for the purpose of inquiry, and except in the event of emergency, the Mayor and the Town Council and its members shall deal with officers and employees in the administrative service only through the Town Manager, and neither the Mayor nor the Council nor any of its members shall give orders or directions to any subordinate of the Town Manager, either publicly or privately.

"ARTICLE VI. STREET IMPROVEMENTS.

"Sec. 6.1. **Assessments for Street Improvements; Petition Unnecessary.** In addition to any authority granted by general law, the Council may, without the necessity of a petition, order street improvements and assess the costs thereof against abutting property, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, upon the following findings of fact:

- (a) The street improvement project does not exceed 3,000 linear feet; and
- (b)
 - (1) The street or part thereof is unsafe for vehicular traffic or creates a safety or health hazard, and it is in the public interest to make such improvement; or
 - (2) It is in the public interest to connect two streets, or portions of a street already improved; or
 - (3) It is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of a street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof.

"Sec. 6.2. **Street Improvement Defined.** For the purposes of this Article, the term 'street improvement' shall include excavation, grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters, and street drainage facilities; including legal and engineering fees, charges, and costs.

"Sec. 6.3. **Procedure; Effect of Assessment.** In ordering street improvements without a petition and assessing the costs thereof under authority of this Article, the Council shall comply with the procedures provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to petitions of property owners and the sufficiency thereof. The effect of the act of levying assessments under authority of this Article shall be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"ARTICLE VII. SIDEWALKS.

"Sec. 7.1. **Assessments for Sidewalk Improvements; Petition Unnecessary.** In addition to any authority granted by general law, the council may, without the necessity of a petition, order sidewalk improvements or repairs according to standards and specifications of the Town, and assess the total costs thereof against abutting property, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Council may order the costs of sidewalk improvements made only on one side of a street to be assessed against property abutting both sides of such street. In ordering sidewalk improvements or repairs without a petition and assessing the costs thereof under authority of this Article, the Council shall comply with the procedures provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to petitions of property owners and the sufficiency thereof.

The effect of levying assessments under authority of this Article shall be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 7.2. **Property Owner's Responsibility.** It shall be the duty of every property owner in the Town to maintain in good repair and to keep clean and free of debris, trash, and other obstacles or impediments the sidewalks abutting his property.

"Sec. 7.3. **Town Cleaning or Repair; Costs Become Lien.** The Town Council may by ordinance establish a procedure whereby Town forces may repair or clean any sidewalk or remove therefrom any debris or trash after failure of the abutting property owner after 10 days' notice to do so. In such event, the cost of such repair or cleaning or removal shall become a lien upon the abutting property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the Town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs, and penalties as provided by law for the foreclosure of the lien on real estate for ad valorem taxes. The authority and procedure of this section shall be supplementary to the authority and procedure of Section 8.1 of this Charter. The Town Council may, in its discretion, proceed under either section in causing sidewalks to be repaired.

"ARTICLE VIII. POLICE.

"Sec. 8.1. **Police Jurisdiction.** The Town police force shall have extraterritorial jurisdiction as provided by G.S. 160A-286; however, such jurisdiction shall not include any area located within the corporate limits of the Town of Princeville.

"ARTICLE IX. FIREFIGHTERS.

"Sec. 9.1. **Firemen's Supplemental Retirement Fund.** The Tarboro Firemen's Supplemental Retirement Fund shall continue as authorized by Chapter 261, Session Laws of 1973, as amended by Chapter 157, Session Laws of 1985, and Chapter 609, Session Laws of 1987, and any subsequent acts.

"ARTICLE X. PROPERTY DISPOSITION.

"Sec. 10.1. **Town Commons.** No sale of any part of the Town Commons lying North of Wilson Street (formerly Saint Joshua Street) shall be valid unless made in pursuance of special powers given hereafter by the General Assembly. No use or occupation of any portion of said Town Commons, by way of easement or otherwise, shall ever give any right by prescription.

"Sec. 10.2. **Disposal of Surplus Personal Property.** The Town may dispose of surplus personal property valued at less than two thousand dollars (\$2,000) for any one item or group of items using the procedures authorized in G.S. 160A-266(c)."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Tarboro and to consolidate certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Sec. 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools, or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Sec. 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 937, Session Laws of 1959

Chapter 547, Session Laws of 1965

Chapter 531, Session Laws of 1967, except for Section 4

Chapter 845, Session Laws of 1967

Chapter 1164, Session Laws of 1981 (Regular Session 1982)

Chapter 905, Session Laws of 1985 (Regular Session 1986)

Chapter 963, Session Laws of 1985 (Regular Session 1986)

Chapter 730, Session Laws of 1987, Section 2

Chapter 305, Session Laws of 1991.

Sec. 5. The Mayor and Council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified. Thereafter those offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

Sec. 6. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Sec. 7. All existing ordinances, resolutions, and other provisions of the Town of Tarboro not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Sec. 8. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Sec. 9. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended general statute, or to the general statute which most clearly corresponds to the statutory provision which is superseded or recodified.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 9th day of May, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives