

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 812
HOUSE BILL 927

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF
GRIFTON AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina do enact:

Section 1. The Charter of the Town of Grifton is hereby revised and consolidated to read as follows:

THE CHARTER OF THE TOWN OF GRIFTON

ARTICLE I. INCORPORATION AND CORPORATE POWERS.

Section 1.1. Incorporation and General Powers. The Town of Grifton shall continue to be a body politic and corporate under the name and style of the "Town of Grifton", and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

Sec. 1.2. Exercise of Powers. All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

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 Town of Grifton shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

ARTICLE II. CORPORATE BOUNDARIES

Sec. 2.1. Existing Corporate Boundaries. The corporate boundaries of the Town of Grifton shall be as follows until changed in accordance with law:

Beginning at a point in the center line of the main line of the Seaboard Coast Line Railroad on the southern side of Contentnea Creek in Lenoir County, said point being South 37 degrees 30' West along the center line of

the main line of the Seaboard Coast Line Railroad 384 feet from the southern edge of the steel draw on said railroad bridge; thence from this beginning South 55 degrees 15' East 636 feet to a point; thence North 80 degrees East 2545 feet to a point; thence along a line North 30 degrees East 80 feet to the South bank of Contentnea Creek and continuing along the South bank 2060 feet in a South-southeasterly direction to a point on the southern line of the right-of-way of the transmission line to the Voice of America installation; thence North 23 degrees East, crossing Creek Road at a point 635 feet northwest of the western end of the bridge over Mill Branch, and continuing in the direction of North 23 degrees East 3000 feet more or less to a point in the center line of the Grifton-Vanceboro Highway, North Carolina State Highway 118, where a ditch crosses said highway; thence with the center line of said ditch North 37 degrees East 880 feet to a point in the center line of said ditch; thence North 31 degrees 30' West 525 feet to the center line of Wall Street, previously called "The Culture Road"; thence with the center line of said road North 62 degrees East 675 feet to a point in said center line; thence North 35 degrees 7' West 2800 feet running with a northern line of the Howell P. Rasberry Subdivision by map dated June 26, 1952, across Church Street, to a point in the center line of the Seaboard Coast Line Railroad; thence with the center line of said railroad in a southwesterly direction 940 feet to a point in said center line; thence North 47 degrees West 1600 feet to a point in the center line of the Grifton-Greenville Highway, North Carolina State Highway 11, where a ditch crosses said highway; thence with the center line of said ditch South 66 degrees 30' West 600 feet to a point in said ditch; thence South 41 degrees West 630 feet to a stake in the common line between the A. L. Patrick Estate and the McCotter Heirs property; thence with the common line between the A. L. Patrick Estate and the McCotter Heirs property South 87 degrees West 1450 feet to a point where said line is intersected by the southern line of a thirty-foot-wide road right-of-way that is 180 feet south of and parallel to the southern line of Queen Street; thence with the southern line of this thirty-foot-wide road South 43 degrees 15' East 1180 feet to the eastern line of the A. L. Patrick Estate; thence South 59 degrees 22' West 2660 feet to the northern bank of Contentnea Creek; thence across Contentnea Creek South 68 degrees West 988 feet to a point in a ditch in Lenoir County; thence South 8 degrees West 572 feet with the line of said ditch to a point that is 250 feet from the center line of the Grifton-Hugo Highway, Rural Paved Road No. 1704; thence South 62 degrees 30' East 730 feet to a point in the center line of the Grifton- Kinston Highway, North Carolina State Highway 11, where a ditch meets said highway; thence with the line of said ditch South 32 degrees 30' East 580 feet to a point in said ditch; thence South 53 degrees East 1420 feet to a point in the center of the main line of the Seaboard Coast Line Railroad; thence North 37 degrees 30' East 488 feet to the beginning.

Sec. 2.2. Extension of Corporate Boundaries. All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

Sec. 3.1. Composition of Board of Commissioners. The Board of Commissioners shall consist of five members to be elected by and from the qualified voters of the Town 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 Town voting at large in the manner provided in Article IV. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. Where there is an equal division upon a question or in the appointment of officers, the Mayor shall determine the matter by his vote, but he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Commissioners shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

Sec. 3.3. Terms; Qualifications; Vacancies. (a) The Mayor and members of the Board of Commissioners shall serve for terms of two years, as provided in Article IV, beginning the day and hour of the organizational meeting following their election; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Commissioners or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) In the event a vacancy occurs in the office of Mayor or Commissioner, the Board shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

Sec. 3.4. Compensation of Mayor and Commissioner. The Mayor shall receive for his services such salary as the Board of Commissioners shall determine, and no reduction in his salary shall be made to take effect during the term in which it is voted. The Board may establish a salary for its members which may be increased or reduced.

Sec. 3.5. Organization of Board of Commissioners; Oaths of Office. The Board of Commissioners shall meet and organize for the transaction of business at the first regular meeting following each biennial election. Before entering upon their offices, the Mayor and each Commissioner shall take, subscribe, and have entered upon the minutes of the Board the 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. 3.6. Meetings of Board. (a) The Board of Commissioners shall fix suitable times for its regular meetings, which shall be as often as once monthly. Special meetings may be held on the call of the Mayor or a majority of the Board, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

(b) All meetings of the Board shall be open to the public. The Board shall not by executive session or otherwise formally consider or vote upon any question in private session.

Sec. 3.7. Quorum; Votes. (a) A majority of the members elected to the Board of Commissioners shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) Three affirmative votes, which may include the vote of the Mayor in the event of equal division among the Commissioners shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of those present and voting.

Sec. 3.8. Ordinances and Resolutions. The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The yeas and nays shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clauses of all ordinances shall be: "Be it ordained by the Board of Commissioners of the Town of Grifton". All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

ARTICLE IV. ELECTION PROCEDURE

Sec. 4.1. Regular Elections. Regular municipal elections shall be held annually on Tuesday after the first Monday in May. In each odd- numbered year, there shall be elected a Mayor and two Commissioners to serve for terms of two years. In each even-numbered year, there shall be elected three Commissioners to serve for terms of two years."

Sec. 4.2. Filing of Candidates. Each qualified person who would offer himself as a candidate for the office of Mayor or Commissioner shall file with the Town Clerk a statement giving notice of his candidacy. Such notice shall be filed not earlier than sixty (60) days nor later than five o'clock p.m. on the third Friday preceding the election at which he offers his candidacy, shall be accompanied by payment of a filing fee of five dollars (\$5.00), shall be signed in the presence of the Town Clerk of his designee, and shall be substantially in the following form: "I _____, do hereby give notice that I am a candidate for election to the office of (Mayor)(Commissioner), to be voted on at the election to be held on _____, and I hereby request that my name be placed on the official ballot for such office. I also certify that I am a resident and qualified voter of the Town of Grifton, residing at _____.
Date: _____ (Signature)_____."

Sec. 4.3. Voting. In each election, each qualified voter shall be entitled to vote for one candidate for each office to be filled.

Sec. 4.4. Ballots. No names other than those of candidates who have properly filed notice as herein required shall be printed upon the ballots for any municipal election.

In elections for Commissioner, each voter shall cast his or her vote for as many candidates as there are offices to be filled, and where a voter marks his ballot for any number of candidates for Commissioner more or less than the number of offices to be filled, such ballot shall not be counted for any of the candidates for Commissioner.

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.

ARTICLE V. TOWN ATTORNEY

Sec. 5.1. Appointment; Qualifications; Term; Compensation. The Board of Commissioners shall appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board of Commissioners and shall receive such compensation as the Board shall determine.

Sec. 5.2. Duties of Town Attorney. It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Commissioners, Town Manager, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Commissioners; and to perform such other duties as may be required of him by virtue of his position of Town Attorney.

ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

Sec. 6.1. Town Clerk. The Board of Commissioners shall appoint a Town Clerk to keep a journal of the proceedings of the Board of Commissioners and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board of Commissioners may direct.

Sec. 6.2. Town Tax Collector. The Board of Commissioners may appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, 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. 6.3. Town Accountant. The Board of Commissioners may appoint a Town Accountant to perform the duties of the Accountant as required by the Municipal Fiscal Control Act.

Sec. 6.4. Consolidation of Functions. The Board of Commissioners may consolidate any two or more of the positions of Town Clerk, Town Tax Collector, and Town Accountant, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions.

ARTICLE VII. FINANCE AND TAXATION.

Sec. 7.1. Custody of Town Money. All moneys received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository. Such institutions shall be designated by the Board of Commissioners in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys belonging to the Town shall accrue to the benefit of the Town. All moneys belonging to the Town shall be disbursed only in accordance with the provisions of the Municipal Fiscal Control Act.

Sec. 7.2. Independent Audit. As soon as practicable after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or a qualified public accountant registered under Chapter 93 of the General Statutes of North Carolina, who shall have no personal interest directly or indirectly in the affairs of the Town or of any of its officers. The Board of Commissioners shall select the public accountant, and the results of such audit shall be made available for inspection by any interested citizen of the Town, and may be published if so ordered by the Board of Commissioners.

ARTICLE VIII. DISPOSAL OF PROPERTY

Sec. 8.1. Disposal of Surplus Real Property. Subject to the provisions of subsection (c) of this Section, the Board of Commissioners shall have power, in addition to the power granted by G. S. 160-59, by their unanimous vote to dispose of any real property which the Board has declared to be surplus, in the following manner:

(a) without bids or advertisement, at private sale, if the property has a market value of not more than two thousand dollars (\$2,000.00);

(b) without bids or advertisement, by exchange for real property of like or greater market value;

(c) No sale or exchange of real property authorized by this Section shall be ordered by the Board of Commissioners unless it shall have caused to be published at least once in each of the two calendar weeks immediately preceding the vote authorizing such sale in a newspaper having general circulation in the Town a notice of their intention to consider such sale or exchange.

Sec. 8.2. Disposal of Surplus Personal Property. The Board of Commissioners shall have power, in addition to the power granted by G. S. 160-59, to sell or to direct any of its officers or employees to sell any personal property, which the Board has declared to be surplus property, in the following manner:

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

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

(c) to the highest bidder upon receipt of sealed bids after one week's public notice, if the property has a market value in excess of two thousand dollars (\$2,000.00); provided, all such sealed bid proposals shall be opened in public and recorded on the minutes of the Board.

ARTICLE IX. POLICE

Sec. 9.1. Jurisdiction Extended. (a) The jurisdiction of the police force is hereby extended to include all territory outside and within one and one half miles of the corporate limits, and all members of the police force shall have within such territory all rights, power and authority as they have within the corporate limits.

(b) The jurisdiction of the police force is hereby extended to include all Town owned property and facilities whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they have within the corporate limits.

Sec. 9.2. Effect of Ordinances on Town Property. All applicable ordinances of the Town shall have full force and effect upon and within all property and facilities owned by the Town, whether located within or outside the corporate limits.

ARTICLE X. STREET AND SIDEWALK IMPROVEMENTS

Sec. 10.1. Street Improvements; Assessment of Costs. In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the City Council is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

Sec. 10.2. When Petition Unnecessary. The Board of Commissioners may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property owners at an equal rate per front foot, without the necessity of a petition, upon the finding by the Council as a fact:

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

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

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

Sec. 10.3. Street Improvement Defined. For the purposes of this Article, the term "street improvement" shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

Sec. 10.4. Sidewalks; Assessment of Costs. In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board of Commissioners is hereby authorized to order to be made or to make sidewalk improvements or repairs without petition according to standards and specifications of the City, and to assess the total cost thereof against abutting property owners.

Sec. 10.5. Assessment Procedure. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this

Article, the Board of Commissioners shall comply with the procedure provided by Article 9 of Chapter 160 of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

Sec. 10.6. Effect of Assessments. The effect of the act of levying assessments under authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 9 of Chapter 160 of the General Statutes.

ARTICLE XI. CLAIMS AGAINST THE TOWN

Sec. 11.1. Presentation of Claims; Suit Upon Claims. (a) All claims or demands against the Town of Grifton arising in tort or in contract shall be presented to the Board of Commissioners in writing, signed by the claimant, his attorney or agent, within ninety days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within thirty days or after the expiration of twelve months from the time said claim or demand is so presented. Unless the claim or demand is so presented within ninety days after the cause of action accrues, and unless suit is brought within twelve months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town on account of damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Commissioners of the claims, 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 longest period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity.

Sec. 11.2. Settlement of Claims. The Board of Commissioners may authorize the Town Attorney to settle claims against the Town for (1) personal injuries or damages to property when the amount involved does not exceed the sum of one hundred dollars (\$100.00) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred and (2) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not

exceed five hundred dollars (\$500.00) and does not exceed the actual loss sustained. Settlement of a claim by the Town Attorney pursuant to this Section shall constitute a complete release of the Town from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion, or taking complained of.

Sec. 2. The purpose of this Act is to revise the Charter of the Town of Grifton and to consolidate herein 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 consolidated into this Act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, nor in any manner to affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Grifton;

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which enacted, or having been consolidated into this Act, are hereby repealed: C. 72, Private Laws, 1883; C. 127, Private Laws, 1889; C. 229, Private Laws, 1895; C. 359, Private Laws, 1901; C. 358, Private Laws, 1907; C. 170, Private Laws, 1917; C. 9, Session Laws, 1947; C. 882, Session Laws 1947; C. 1072, Session Laws, 1955; C. 292, Session Laws, 1957; C. 331, Session Laws, 1959; C. 665, Session Laws, 1959; C. 253, Session Laws, 1961; C. 1052, Session Laws, 1963.

Sec. 5. No provision of this Act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this Act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this Act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this Act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Grifton, and all existing rules or regulations of departments or agencies of the Town of Grifton, not inconsistent with the provisions of this Act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this Act by or against the Town of Grifton or any of its departments or agencies shall be abated or otherwise affected by the adoption of this Act.

Sec. 8. Severability. If any provision of this Act or the application thereof to any person or circumstances 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. 9. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 10. This Act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1969.