

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 825
HOUSE BILL 1098

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

The General Assembly of North Carolina do enact:

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

THE CHARTER OF THE TOWN OF INDIAN TRAIL

ARTICLE I. INCORPORATION AND CORPORATE POWERS

Section 1.1. Incorporation and General Powers. The Town of Indian Trail shall continue to be a body politic and corporate under the name and style of the "Town of Indian Trail", 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 Town Council and as provided by the general laws of North Carolina pertaining to municipal corporations.

Sec. 1.3. Enumerated Powers Not Exclusive. The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Indian Trail 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 Indian Trail shall be as follows until changed in accordance with law:

All that territory lying and being within a circle, the radius being one-half mile from a point at the center of the Rural Paved Road No. 1008 crossing the centerline of the track of the Seaboard Coast Line Railroad Company at said place.

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 TOWN COUNCIL

Sec. 3.1. 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 Town Council. When there is an equal division upon any question, or in the appointment of officers, by the Council, the Mayor shall determine the matter by his vote, and 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 Town Council 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 Council.

Sec. 3.2. The three Town Council members elected at the regular 1969 election shall serve in such capacity until the regular 1971 election. Beginning in 1971, the Town Council shall consist of five members elected in the manner provided in Article IV.

Sec. 3.3. Terms; Qualifications; Vacancies. (a) Beginning with the regular election in 1971, the Mayor and the members of the Town Council shall serve for terms of four (4) years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter, provided, they shall serve until their successors are elected and qualify.

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

(c) If any elected Mayor or Councilman shall refuse to qualify, or if there shall be a vacancy in the office of Mayor or Councilman, after election and qualification, the remaining members of the Council shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term. Any mayor or Councilman so appointed shall have the same authority and powers as if regularly elected.

Sec. 3.4. Compensation of Mayor and Councilmen. The Mayor shall receive for his services such salary as the Town Council shall determine, but no reduction in his salary shall be made to take effect during the term in which it is voted. The Council may establish a salary for its members which may be increased or reduced, but no reduction shall be made to take effect as to any Councilman during the respective term of office which he is serving at the time the reduction is voted.

Sec. 3.5. Organization of Council; Oaths of Office. The Town Council shall meet and organize for the transaction of business at a time established by ordinance, following each biennial election and prior to July 1. Before entering upon their offices, the Mayor and each Councilman shall take, subscribe, and have entered upon the minutes of the Council the following oath of office: "I, _____, do solemnly

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

Sec. 3.6. Meetings of Council. (a) The Town Council shall fix suitable times for its regular meetings, which shall be as often as once monthly. Special meetings may be held on the call of the Mayor or a majority of the Council, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

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

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

(b) The affirmative vote of a majority of the members of the Town Council 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 ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Council. The enacting clauses of all ordinances shall be: "Be it ordained by the Town Council of the Town of Indian Trail". All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

ARTICLE IV. ELECTION PROCEDURE

Sec. 4.1. Regular Municipal Elections. Regular municipal elections shall be held on the Tuesday after the first Monday in May of each odd-numbered year, beginning in 1971. In the regular 1971 election, there shall be elected by the qualified voters of the Town voting at large a Mayor and five (5) Councilmen. The candidate for Mayor who receives the largest number of votes cast for Mayor shall be declared elected for a term of four (4) years. The three (3) candidates for Councilman who receive the largest numbers of votes cast for Councilman shall be declared elected for terms of four (4) years, and the two (2) candidates for Councilman who receive the next largest number of votes cast for Councilman shall be declared elected for terms of two (2) years. In the regular 1973 election and quadrennially thereafter, there shall be elected by the qualified voters of the Town voting at large two (2) Councilmen to serve for terms of four (4) years. In the regular 1975 election and quadrennially thereafter, there shall be elected by the qualified voters of the Town voting at large a Mayor and three (3) Councilmen to serve for terms of four (4) years. In case of a tie between opposing candidates, the election officials shall determine the result by lot.

Sec. 4.2. Voting. In the regular 1971 election, each voter shall be entitled to vote for one (1) candidate for Mayor and for five (5) candidates for Councilman. In the regular 1973 election and quadrennially thereafter, each voter shall be entitled to vote for two (2) candidates for Councilman. In the regular 1975 election and quadrennially thereafter, each voter shall be entitled to vote for one (1) candidate for Mayor and for three (3) candidates for Councilman.

Sec. 4.3. Filing of Candidates. Each qualified person who would offer himself as a candidate for the office of Mayor or Councilman shall file with the Town Clerk a statement giving notice of his candidacy. Such notice shall be filed not earlier than the eighth Friday 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 or 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 _____, Town of Indian Trail, 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 certify that I am a resident and qualified voter of the Town of Indian Trail, residing at _____.
Date: _____ (Signature)_____."

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.

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 Town Council 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 Council and shall receive such compensation as the Council 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, Town Council, 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 Town Council; and to perform such other duties as may be required of him by virtue of his position of Town Attorney.

ARTICLE VI. ADMINISTRATIVE OFFICER AND EMPLOYEES

Sec. 6.1. Town Clerk. The Town Council shall appoint a Town Clerk to keep a journal of the proceedings of the Town Council 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 Council may direct.

Sec. 6.2. Town Tax Collector. The Town Council 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 Town Council 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 Function. The Town Council may, in its discretion, consolidate the functions of 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. The Council may also, in its discretion, designate 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.

Sec. 6.5. Other Employees. The Town Council may create and fill by appointment the position of Town Manager to supervise all Town departments, and may, in its discretion, delegate to the Town Manager the power of appointment and removal of department heads and employees, other than the Town Attorney.

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 or depositories. Such institutions shall be designated by the Town Council 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. Issuance of Bonds. The Town may issue its bonds for the purposes and in the manner prescribed by the General Statutes of North Carolina relating to the issuance of bonds by municipalities.

Sec. 7.3. Purchases and Contracts. Purchases of apparatus, supplies, materials, and equipment, and contracts for construction or repair work shall be made in accordance with the General Statutes of North Carolina relating thereto.

Sec. 7.4. 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 Town Council 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 Town Council.

ARTICLE VIII. CLAIMS AGAINST THE TOWN

Sec. 8.1. Presentation of Claims; Suit Upon Claims. (a) All claims or demands against the Town of Indian Trail arising in tort or in contract shall be presented to the Town Council in writing, signed by the claimant, his attorney or agent, within ninety days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within thirty days or after the expiration of twelve months from the time said claim or demand is so presented. Unless the claim or demand is so presented within ninety days after the cause of action accrues, and unless suit is brought within twelve months thereafter, any action thereon shall be 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 Town Council of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this Section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the happening or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the happening or the infliction of the injury complained of, whichever is the longer period. The 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.

ARTICLE IX. MISCELLANEOUS PROVISIONS.

Sec. 2. The purpose of this Act is to revise the Charter of the Town of Indian Trail 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 Indian Trail;

(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: Chapter 322, Private Laws 1907; Chapter 492, Public-Local Laws 1911.

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 Indian Trail, and all existing rules or regulations of departments or agencies of the Town of Indian Trail, 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 Indian Trail 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 12th day of June, 1969.