

NORTH CAROLINA GENERAL ASSEMBLY  
1969 SESSION

CHAPTER 879  
HOUSE BILL 1102

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

The General Assembly of North Carolina do enact:

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

THE CHARTER OF THE TOWN OF MOREHEAD CITY  
ARTICLE I. INCORPORATION AND CORPORATE POWERS

Section 1.1. Incorporation and General Powers. The Town of Morehead City shall continue to be a body politic and corporate under the name and style of the "Town of Morehead City", 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 Morehead City 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 Morehead City, until changed in accordance with law, shall include the following territory:

All of the land and water area as shown on the "official Map of the Town of Morehead City", made by Philip K. Ball, February, 1955, and recorded in Map Book

Three, Page 100, Carteret County Registry, as amended by subsequent annexations as follows:

All that certain land and water area being former Cecil L. Nelson and Viola J. Nelson property as shown on Map of Philip K. Ball, March, 1958, recorded Map Book Four, Page 51, Carteret County Registry;

All of that certain land and water area abutting the Intercoastal Waterway, and including the Port facilities, as shown on Map of Philip K. Ball, August, 1965, Map Book Six, Page 71, Carteret County Registry;

The R. E. A. property as described in Annexation Ordinance, Book 154, Page 103, Carteret County Registry, and as defined by metes and bounds in Map of J. G. Hassell and recorded in Map Book Two, Page 187, Carteret County Registry;

The former Gertrude W. Laughton property as defined in final judgment Town of Morehead City versus Gertrude Laughton et als, property on North side of Calico Creek and defined by metes and bounds, final judgment recorded in Book 251, Page 289, Carteret County Registry;

Former Gertrude W. Laughton property of 11.45 acres on the Crab Point Loop Road as described by metes and bounds in deed dated February 1, 1967, from Gertrude Laughton to the Town of Morehead City, as recorded in Book 285, Page 35, Carteret County Registry;

The W. C. Flowers property on old U. S. Highway 70 and known and designated as all of Lots 32 and 33 of the Rex K. Bruton Subdivision as recorded in Map Book One, Page 289, Carteret County Registry.

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 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 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 four years, except as provided in Article IV, and the Mayor shall serve for a term of two years, 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 Board of Commissioners, 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 Commissioners. The Mayor shall receive for his services such salary as the Board of Commissioners shall determine, but no reduction in his salary shall be made to take effect during the term for 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; 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 Morehead City". 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. In each election year, there shall be elected a Mayor to serve for a term of two years. In the regular election in 1971, there shall be elected five commissioners, and the three candidates for commissioner who receive the largest numbers of votes shall be declared elected for terms of four years, and the two candidates for commissioner who receive the next largest numbers of votes shall be declared elected for terms of two years. In the regular election in 1973, and quadrennially thereafter, there shall be elected two commissioners to serve for terms of four years. In the regular election in 1975, and quadrennially thereafter, there shall be elected three commissioners to serve for terms of four years.

Sec. 4.2. Voting. Each voter shall be entitled to vote for one candidate for Mayor and for five candidates for Commissioner. The candidate for Mayor who receives the largest number of votes cast for Mayor shall be declared elected. The five candidates for Commissioner who receive the largest numbers of votes cast for Commissioner shall be declared elected.

Sec. 4.3. 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 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 (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 Morehead City, 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 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 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, 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.

Sec. 6.5. Delegation of Administrative Authority. The Board of Commissioners may, in its discretion, by ordinance delegate to some administrative officer of the Town its authority to appoint, remove, and supervise other officers, department heads, and employees, including those officers named in this Article and such others as are authorized or required by general law. Such administrative officer may be given such title, compensation, and duties as the Board deems proper, and such other authority as may lawfully be delegated by it.

#### 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 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.

Sec. 7.3. Limitation of Tax for General Purposes. Notwithstanding the provisions of G.S. 160-402, for the purpose of defraying the expenses incident to the proper government of the Town, the Board of Commissioners may annually levy and collect ad valorem property taxes at such rate as it deems necessary.

#### 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 five thousand dollars (\$5,000.00);

(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 they 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 five thousand dollars (\$5,000.00); 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 mile 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 City, whether located within or outside the corporate limits.

Sec. 9.3. Effect of Ordinances on Certain Waters. All applicable ordinances of the Town shall have full force and effect upon the waters of Bogue Sound, Calico Creek, and Newport River, a distance of three hundred (300) yards in parallel lines from the corporate limits at the respective shore lines, subject, however, to the Constitution and laws of the United States pertaining to the rights of the United States Government over navigable waters.

#### ARTICLE X. SIDEWALKS

Sec. 10.1. 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 according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners. In ordering sidewalk improvements or repairs under authority of this Section, the Board of Commissioners shall comply with the procedure provided by Article 9, Chapter 160 of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof. The effect of levying assessments under authority of this Section shall for all purposes be the same as if the assessments were levied under authority of Article 9, 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 Morehead City 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 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.

**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 Morehead City 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 Morehead City;

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

(c) Any Acts relating to the operation or use of revenues of alcoholic beverage control stores.

**Sec. 4.** (a) 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 172, Private Laws, 1860- 61 (Regular Session); Chapter 111, Private Laws, 1887; Chapter 234, Private Laws, 1889; Chapter 263, Private Laws 1889; Chapter 248,



Private Laws, 1893; Chapter 513, Public Laws, 1899; Chapter 96, Public Laws, 1905; Chapter 254, Private Laws, 1905; Chapter 291, Private Laws, 1905; Chapter 477, Public Laws, 1909; Chapter 117, Private Laws, 1911; Chapter 242, Public- Local Laws, 1913 (Extra Session); Chapter 455, Public-Local Laws, 1915; Chapter 783, Public-Local Laws, 1915; Chapter 67, Private Laws, 1921 (Extra Session); Chapter 245, Private Laws, 1923; Chapter 202, Private Laws, 1925; Chapter 174, Private Laws, 1927; Chapter 128, Private Laws, 1929; Chapter 141, Private Laws, 1929; Chapter 77, Private Laws, 1931; Chapter 71, Private Laws, 1933; Chapter 158, Private Laws, 1933; Chapter 175, Public-Local Laws, 1933; Chapter 196, Private Laws, 1933; Chapter 237, Private Laws, 1933; Chapter 207, Public-Local Laws, 1935; Chapter 381, Public- Local Laws, 1939; Chapter 474, Public-Local Laws, 1939; Chapter 493, Public- Local Laws, 1939; Chapter 3, Private Laws, 1941; Chapter 420, Session Laws, 1943; Chapter 627, Session Laws, 1947; Chapter 726, Session Laws, 1949; Chapter 804, Session Laws, 1949; Chapter 598, Session Laws, 1951; Chapter 331, Session Laws, 1953; Chapter 657, Session Laws, 1953; Chapter 517, Session Laws, 1955; Chapter 1356, Session Laws, 1955; Chapter 629, Session Laws, 1957; Chapter 716, Session Laws, 1957; Chapter 694, Session Laws, 1963.

(b) The following acts, which have been superseded by application of the Judicial Department Act of 1965 in the County of Carteret, are hereby repealed: Chapter 59, Private Laws, 1924 (Extra Session); Chapter 924, Session Laws, 1953; Chapter 991, Session Laws, 1957.

**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 Morehead City, and all existing rules or regulations of departments or agencies of the Town of Morehead City, 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 Morehead City 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 on July 1, 1969.

In the General Assembly read three times and ratified, this the 16th day of June, 1969.