

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 936
HOUSE BILL 1292

1 AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF
2 POLKTON, NORTH CAROLINA.

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4 The General Assembly of North Carolina do enact:

CORPORATE POWERS

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7 **Section 1.** Incorporation and Corporate Powers. The inhabitants of the Town of
8 Polkton, North Carolina, within the boundaries as established in Section Three of this Charter
9 or as hereafter established in the manner provided by law, shall continue to be a body politic
10 and corporate by name the Town of Polkton, and under that name shall have perpetual
11 succession; may use a corporate seal; may sue and be sued; may acquire property within or
12 without its boundaries for any municipal purpose, in fee simple or lesser interest or estate, by
13 purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage and control
14 such property as its interests may require; and, except as prohibited by the Constitution of
15 North Carolina or restricted by this Charter, the Town of Polkton shall have and may exercise
16 all municipal powers, functions, rights, privileges and immunities of every name and nature
17 whatsoever. The following shall be deemed to be a part of the powers conferred upon the Town
18 of Polkton by this Section:

- 19 (1) To levy, assess and collect taxes and to borrow money within the limits
20 prescribed by general law; and to levy and collect special assessments for
21 benefits conferred.
- 22 (2) To furnish all local public services; to purchase, hire, construct, own,
23 maintain and operate or lease local public utilities, to acquire, by
24 condemnation or otherwise, within or without the corporate limits, property
25 necessary for any such purposes, subject to restrictions imposed by general
26 law for the protection of other communities; and to grant local public utility
27 franchises and regulate the exercise thereof.
- 28 (3) To make local public improvements and to acquire, by condemnation, or
29 otherwise, property within or without its corporate limits necessary for such
30 improvements; and also to acquire an excess over that needed for any such
31 improvement, and to sell or lease such excess property with restrictions, in
32 order to protect and preserve the improvement.
- 33 (4) To issue and sell bonds on the security of any such excess property, or of
34 any public utility owned by the town, or of the revenues thereof, or of both,
35 including the case of a public utility, if deemed desirable by the town, a
36 franchise stating the terms upon which, in case of foreclosure, the purchaser
37 may operate such utility.
- 38 (5) To organize and administer public libraries.
- 39 (6) To adopt and enforce within its limits local police, sanitary and other similar
40 regulations not in conflict with general laws.

41 Except as otherwise provided in this Act the Board of Commissioners shall have
42 authority to determine by whom and in what manner the powers granted by this Section shall
43 be exercised.

Sec. 2. Enumerated Powers Not Exclusive. The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the Town of Polkton shall have, and may exercise, all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate. All powers of the town, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed therein, then in the manner provided by ordinance or resolution of the Board of Commissioners.

Sec. 3. Corporate Boundaries. The corporate boundaries of the Town shall be as follows: Seven-eighths of a mile North, seven-eighths of a mile East, five-eighths of a mile South and five-eighths of a mile West from a beginning point which shall be Griffins Store.

BOARD OF COMMISSIONERS

Sec. 4. Creation, Salary and Composition of Mayor and Board of Commissioners. Except as otherwise provided in this Charter, all powers of the town shall be vested in a Board of Commissioners consisting of five members and a mayor nominated and elected from the town at large in the manner hereinafter provided. The term of office of the mayor and the Board of Commissioners shall be for two years and until their successors are elected and qualified, and shall begin on the first Monday in June next following their election. If a vacancy occurs in the office of mayor or commissioner, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the Board of Commissioners. Each member of the Board of Commissioners shall receive a salary, the amount of which shall be prescribed by ordinance. Provided, however, that the present mayor and members of the Board of Commissioners shall continue to receive the same salary until the same is changed as provided herein. No ordinance fixing or changing the salary of members of the Board of Commissioners shall become effective during the current term of office of the members of the Board of Commissioners enacting such ordinance. Members of the Board of Commissioners shall be qualified electors of the town. A member of the Board of Commissioners ceasing to possess any of the qualifications specified in this Section, or convicted of crime while in office, shall immediately forfeit his office.

Sec. 5. Meetings of the Board of Commissioners. At 7:30 o'clock on the first Monday in June following a regular municipal election the Board of Commissioners shall meet at the usual place for holding its meetings and the newly elected members shall assume the duties of office. Thereafter the Board of Commissioners shall meet at such times as may be prescribed by ordinance or resolution, but not less frequently than once each month. Special meetings shall be called by the clerk upon the written request of the mayor or two members of the Board of Commissioners. Any such notice shall state the subject to be considered at the special meeting and no other subject shall be there considered. All meetings of the Board of Commissioners and of committees thereof shall be open to the public, and the rules of the Board of Commissioners shall provide that citizens of the town shall have a reasonable opportunity to be heard at any such meetings in regard to any matter considered thereat.

Sec. 6. Mayor and Mayor Pro Tem. At its first meeting in the month of June following a regular municipal election the Board of Commissioners shall choose one of its members as vice chairman, who shall act as mayor pro tem. The mayor shall preside at meetings of the Board of Commissioners and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by the general laws of North Carolina, by this Charter and the ordinances of the town. He shall be recognized as the head of the town government for all ceremonial purposes, by the courts for serving civil processes, and by the Governor for purposes of military law. In time of public danger or emergency the mayor shall, if so authorized and directed by vote of the Board of Commissioners, take command of the police, maintain order and enforce the law. In case of the

1 absence or disability of the mayor, the mayor pro tem shall act as mayor during the continuance
2 of the absence or disability.

3 **Sec. 7.** Board of Commissioners Rules. The Board of Commissioners shall be the
4 judge of the election and qualifications of its members and the mayor, and in such cases shall
5 have power to subpoena witnesses and compel the production of all pertinent books, records,
6 and papers; but the decision of the Board of Commissioners in any such case shall be subject to
7 review by the courts. The Board of Commissioners shall determine its own rules and order of
8 business and keep a journal of its proceedings.

9 **Sec. 8.** Quorum. A majority of the members elected to the Board of Commissioners
10 shall constitute a quorum to do business, but a less number may adjourn from time to time and
11 compel the attendance of absent members in such manner and under such penalties as may be
12 prescribed by ordinance. The affirmative vote of a majority of the members elected to the
13 Board of Commissioners shall be necessary to adopt any ordinances, resolutions, order or vote;
14 except that a vote to adjourn, or regarding the attendance of absent members, may be adopted
15 by a majority of the members present. No member shall be excused from voting except on
16 matters involving the consideration of his own official conduct or when his financial interests
17 are involved.

18 **Sec. 9.** Introduction and Passage of Ordinances and Resolutions. Ordinances and
19 resolutions shall be introduced in the Board of Commissioners only in written or printed form.
20 All ordinances, except ordinances making appropriations and ordinances codifying or
21 rearranging existing ordinances or enacting a code of ordinances, shall be confined to one
22 subject, and the subject or subjects of all ordinances shall be clearly expressed in the title.
23 Ordinances making appropriations shall be confined to the subject of appropriations. The yeas
24 and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the
25 journal of the proceedings of the Board of Commissioners. The enacting clause of all
26 ordinances shall be: "Be it ordained by the Town of Polkton".

27 **Sec. 10.** When Ordinances and Resolutions Take Effect. No ordinance shall be
28 passed finally on the date on which it is introduced, except ordinances making the annual tax
29 levy, appropriation ordinances, ordinances and resolutions providing for or directing any
30 investigation of town affairs, resolutions requesting information from administrative officers or
31 directing administrative action, and emergency measures. An emergency measure is an
32 ordinance or resolution to provide for the immediate preservation of the public peace, property,
33 health, or safety, in which the emergency claimed is set forth and defined in a preamble thereto.
34 The affirmative vote of at least four members of the Board of Commissioners shall be required
35 to pass any ordinance or resolution as an emergency measure. No measure making or amending
36 a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an
37 emergency measure. No situation shall be declared an emergency by the Board of
38 Commissioners except as defined in this Section, and it is the intention of this Charter that such
39 definitions shall be strictly construed by the courts.

40 **Sec. 11.** Authentication and Publication of Ordinances and Resolutions. Upon its
41 final passage each ordinance or resolution shall be authenticated by the signature of the mayor
42 and the town clerk and shall be recorded in a book kept for that purpose.

43 MUNICIPAL ELECTIONS

44 **Sec. 12.** Municipal Elections. The regular election for the choice of mayor and
45 members of the Board of Commissioners shall be held on Tuesday following the first Monday
46 in May in odd numbered years. The Board of Commissioners may by resolution order a special
47 election, fix the time for holding the same, and provide all means for holding such special
48 election.

49 **Sec. 13.** Regulations of Elections. All elections shall be conducted in accordance
50 with the general state laws relating to municipal elections, except as otherwise provided herein.

Sec. 14. Candidates for Office. Any qualified elector of the town may become a candidate for the office of mayor or Board of Commissioners by filing at least ten (10) days prior to the date of the election a written notice on forms provided by the town with the town clerk and by payment of the filing fee as provided for herein. The filing fee for the office of mayor shall be ten dollars (\$10.00) and for the office of Board of Commissioners shall be five dollars (\$5.00).

The town clerk shall take and preserve the form filed by each candidate. No filing form shall be accepted unless signed by the candidate. Any candidate may withdraw his nomination not later than the last day for filing by filing a notice of withdrawal with the town clerk. The filing form of each candidate for mayor or a member of the Board of Commissioners shall be preserved by the town clerk until the expiration of the term of office for which he filed.

Sec. 15. Election of Mayor and Board of Commissioners. All members of the Board of Commissioners shall be elected at large. Every voter shall be entitled to vote for one candidate for mayor and for as many candidates as there are members to be elected to the Board of Commissioners. All candidates up to the number to be elected, who receive the largest number of votes shall be declared elected.

ADMINISTRATIVE SERVICE

Sec. 16. Appointment of Officers and Employees. The Board of Commissioners may appoint a town clerk, a treasurer, a tax collector, an accountant, a town attorney, a chief of police, a fire chief, and such other officers and employees as may be necessary, none of whom need be a resident of the town at the time of appointment; Provided, that the Board of Commissioners may appoint one person to fill any two or more such positions. Such employees or officers shall serve at the pleasure of the Board of Commissioners, and shall perform such duties as may be prescribed by the Board of Commissioners. The Board of Commissioners shall fix all salaries, prescribe bonds and require such oaths as they may deem necessary.

Sec. 17. Town Clerk. The Board of Commissioners shall choose a town clerk. The town clerk shall keep the records of the Board of Commissioners and perform such other duties as may be required by law or the Board of Commissioners.

Sec. 18. Duties of Town Attorney. The attorney shall be an attorney at law who shall have practiced in the State of North Carolina for at least five years. He shall be the chief legal adviser of and attorney for the town and all departments and officers thereof in matters relating to their official powers and duties. It shall be his duty, either personally or by such assistants as he may designate, to perform all services incident to the department of law; to attend all meetings of the Board of Commissioners; to give advice in writing, when so requested, to the Board of Commissioners or the director of any department; to prosecute or defend, as the case may be, all suits or cases to which the town may be a party, to prepare all contracts, bonds and other instruments in writing in which the town is concerned, and to endorse on each his approval of the form and correctness thereof, and to perform such other duties of a legal nature as the Board of Commissioners may require. In addition to the duties imposed upon the town attorney by this Charter or required of him by ordinances or resolution of the Board of Commissioners, he shall perform any duties imposed upon the chief legal officers of municipalities by law.

Sec. 19. Duties of Town Accountant. The town accountant shall prepare the budget in accordance with the general laws of North Carolina relating to the preparation of municipal budgets. He shall have authority and shall be required: To maintain accounting control over the finances of the town government, for which purpose he is empowered to operate a set of general accounts embracing all the financial transactions of the town and such subsidiary accounts and cost records as may be required by ordinance or by the Board of Commissioners for purposes of administrative direction and financial control; to prescribe the forms of receipts, vouchers, bills, or claims to be filed by all departments and agencies of the town government; to examine and approve all contracts, orders and other documents by which the town incurs

1 financial obligations, having ascertained before approval that moneys have been duly
2 appropriated and allotted to meet such obligations and will become available when the
3 obligations have become due and payable; to audit and approve all bills, invoices, payrolls, and
4 other evidences of claims, demands, or charges against the town government and to determine
5 the regularity, legality, and correctness of such claims, demands, or charges; to make monthly
6 reports on all receipts and expenditures of the town government to the mayor and Board of
7 Commissioners and to take monthly reports on funds, appropriations, allotments,
8 encumbrances. and authorized payments to the mayor, the Board of Commissioners, and the
9 head of the department or agency directly concerned; to inspect and audit any accounts or
10 records of financial transactions which may be maintained by any department or agency of the
11 town government apart from or subsidiary to the general accounts; and to perform such other
12 duties pertaining to the financial records of the town government as the Board of
13 Commissioners may require by ordinance.

14 **Sec. 20.** Duties of Town Tax Collector. Tax collector shall collect all taxes,
15 licenses, fees, and other moneys belonging to the town government, subject to the provisions of
16 this Charter and ordinances enacted thereunder, and he shall diligently comply with and enforce
17 the general laws of North Carolina relating to the collection, sale and foreclosure of taxes by
18 municipalities. It shall be the duty of the tax collector to deposit daily in the town depository all
19 moneys belonging to the town.

20 **Sec. 21.** Duties of Town Treasurer. The treasurer, if any, shall have custody of and
21 shall disburse all moneys belonging to the town government subject to the provisions of this
22 Charter and ordinances enacted thereunder; shall have custody of all investments and invested
23 funds of the town or in possession of the town in a fiduciary capacity, and shall keep a record
24 of such investments, and shall have custody of all bonds and certificates of town indebtedness
25 including such bonds and certificates unissued or cancelled, and the receipt and delivery of
26 town bonds and certificates for transfer, registration, or exchange.

27 **Sec. 22.** Custody of Town Money. All moneys received by any department or
28 agency of the town for or in connection with the business of the town government shall be paid
29 promptly into the town depository. Such institution shall be designated by the Board of
30 Commissioners in accordance with such regulations and subject to such requirements as to
31 security for deposits and interest thereon as may be established by ordinance. All interest on
32 moneys belonging to the town shall accrue to the benefit of the town government. All moneys
33 belonging to the town government shall be disbursed only on vouchers signed by the mayor
34 and countersigned by the town clerk.

35 **Sec. 23.** Issuance of Bonds. The town may issue bonds for the purpose and in the
36 manner prescribed by the general laws of North Carolina for the issuance of bonds by
37 municipalities.

38 **Sec. 24.** Purchase Procedure. Before making any purchase for supplies, materials,
39 equipment, opportunity shall be given for competition, under such rules and regulations, and
40 with such exceptions, as the Board of Commissioners may prescribe by ordinance. All
41 expenditures for supplies, materials, equipment, involving more than two thousand dollars
42 (\$2,000.00) shall be made on a written contract and such contract shall be awarded to the
43 lowest responsible bidder after such public notice and competition as may be prescribed by
44 ordinance and not in conflict with the general law of the state.

45 **Sec. 25.** Contracts for Town Improvements. Any town improvement costing more
46 than thirty-five hundred dollars (\$3,500.00) shall be executed by contract except where such
47 improvement is authorized by the Board of Commissioners to be executed directly by a town
48 department in conformity with detailed plans, specifications and estimates, and provided the
49 total cost is estimated not to exceed fifteen thousand dollars (\$15,000.00). All such contracts
50 for more than thirty-five hundred dollars (\$3,500.00) shall be awarded to the lowest responsible

bidder after such public notice and competition as may be prescribed by ordinance, provided the Board of Commissioners shall have the power to reject all bids and advertise again.

Sec. 26. Contracts Extending Beyond One Year. No contract involving the payment of money out of the appropriations of more than one year (other than renewals of continuing appropriations) shall be made for a period of more than ten years; nor shall any such contract be valid unless made or approved by ordinance. No ordinance providing for such a contract shall be valid unless notice of the intention to pass the same was published in a newspaper of general circulation within the town at least ten days before its passage by the Board of Commissioners.

Sec. 27. Independent Audit. As soon as practicable after the close of each fiscal year, an independent audit shall be made of all accounts of the town government by qualified public accountants, selected by the Board of Commissioners, who have no personal interest directly or indirectly in the financial affairs of the town government or of any of its officers.

Sec. 28. Police Jurisdiction Extended. The police officers of the Town of Polkton shall have within all that territory embraced within one mile in all directions of the corporate limits of said town, all the power and authority which they now exercise within the corporate limits.

MISCELLANEOUS PROVISIONS

Sec. 29. Publicity of Records. All records and accounts of every office and department of the town shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under reasonable regulations established by the Board of Commissioners.

Sec. 30. Personal Interest. Neither the mayor nor any members of the Board of Commissioners nor any officer or employee of the town shall have a financial interest, direct or indirect, in any contract with the town, or be financially interested, directly or indirectly, in the sale to the town of any land, materials, supplies or services, except on behalf of the town as an officer or employee. Any willful violation of this Section shall constitute malfeasance in office, and any officer or employee of the town found guilty thereof shall thereby forfeit his office or position. Any violation of this Section, with the knowledge express or implied of the person or corporation contracting with the town shall render the contract voidable by the Board of Commissioners.

Sec. 31. Oath of Office. Every officer of the town shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the town clerk:

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

Sec. 32. Continuance of Contracts. All contracts entered into by the town or for its benefit prior to the taking effect of this Charter shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or charter provisions existing at the time this Charter takes effect may be carried to completion in accordance with the provisions of such existing laws and charter provisions.

Sec. 33. Saving Clause. If any part of this Charter shall be declared invalid by a court of competent jurisdiction, such judgment shall not invalidate the remainder of the Charter. The provisions of this Charter shall supersede all laws and ordinances not consistent herewith, in so far as the Town of Polkton is affected thereby.

Sec. 34. Repealing Clause. The following acts, having served the purposes for which enacted, or having been consolidated into this Act, are hereby repealed:

- (1) "AN ACT TO INCORPORATE THE TOWN OF POLKTON, IN THE COUNTY OF ANSON, Private Laws of North Carolina, 1874-75, Chapter 158.
- (2) "AN ACT TO AMEND CHAPTER 158 OF THE PRIVATE LAWS OF 1874-75 RELATIVE TO CHARTER OF POLKTON", Private Laws of North Carolina, 1913, Chapter 159.
- (3) "AN ACT TO AMEND THE CHARTER OF THE TOWN OF POLKTON, IN THE COUNTY OF ANSON, RELATING TO THE ELECTION OF OFFICERS OF SAID TOWN", Session Laws of North Carolina, 1947, Chapter 763.

Sec. 35. This Act shall be in full force and effect from and after its ratification, provided that the mayor and Board of Commissioners in office at the time this Charter takes effect shall continue until their successors are elected and qualified.

In the General Assembly read three times and ratified, this the 19th day of June, 1969.