

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 111
HOUSE BILL 434

AN ACT TO INCORPORATE THE TOWN OF HARRISBURG IN CABARRUS
COUNTY SUBJECT TO AN ELECTION.

The General Assembly of North Carolina enacts:

Section 1. (a) The Board of Elections in Cabarrus County is hereby authorized to call and conduct a special election on such date as it shall determine for the purpose of submitting to the qualified voters for the area hereinafter described as the proposed corporate limits of the Town of Harrisburg, the question whether or not such area shall be incorporated as a municipal corporation known as the Town of Harrisburg. On the election day, the polls shall be open from 6:30 a.m. until 7:30 p.m. The Board of Elections for Cabarrus County in conducting the election required to be held herein shall follow the procedure as outlined in this act and Articles 23 and 24 of the General Statutes of North Carolina relating to municipal elections where not in conflict with this act.

(b) Not later than thirty (30) days prior to the date on which the registration books are required to be closed, the Board of Elections of Cabarrus County shall cause to be posted at the Harrisburg Post Office, and at such other public places as the Board may choose, a notice stating the time, the polling place, and the purpose of the special elections; the names of the registrar and judges of election, the dates, hours, and place or places of registration. The Board of Elections may, in its discretion, also cause such notice to be published one or more times in a newspaper having general circulation in the Harrisburg Community.

(c) In the special election, those voters who favor the incorporation of the Town of Harrisburg as provided in this act shall vote a ballot upon which shall be printed the words: "FOR Incorporation of the Town of Harrisburg", and those voters who are opposed to the incorporation of the Town of Harrisburg as provided in this act shall vote a ballot upon which shall be printed the words: "AGAINST Incorporation of the Town of Harrisburg".

Sec. 2. If a majority of the votes cast in such special election shall be cast "AGAINST Incorporation of the Town of Harrisburg", then "the Charter of the Town of Harrisburg" of this act shall have no force and effect.

Sec. 3. If a majority of the votes cast in such special election shall be cast "FOR Incorporation of the Town of Harrisburg", then "the Charter of the Town of Harrisburg" of this act shall be in full force and effect from and after the date upon which a certificate of election shall have been issued by the Chairman of the Cabarrus County Board of Elections in accordance with G.S. 163-301.

Sec. 4. The following provisions of law shall constitute the Charter of the Town of Harrisburg in Cabarrus County.

"THE CHARTER OF THE TOWN OF HARRISBURG.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. Incorporation and General Powers. The inhabitants of the area described in Section 2.1 of this Charter shall be and constitute a body politic and corporate under the name of the 'Town of Harrisburg', and shall be vested with all property which may be acquired by the Town, and all rights herein delegated to it; 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 to, dedicated to, 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 Harrisburg 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. Corporate Boundaries. The corporate boundaries of the Town of Harrisburg, until changed in accordance with law are as follows:

BEGINNING at a point south of N.C. Highway 49, said point being located 40 feet south of and normal to the centerline of Highway 49 at the Northwesterly corner of Parcel 12.1, Map 13, thence in a southerly direction along the westerly property line of said parcel approximately 950 feet to the southwesterly corner of said parcel, thence in an easterly direction 230 feet to the southeasterly corner of said parcel, thence in a northerly direction along the easterly property line of said parcel 947 feet to a point located 40 feet south of and normal to Highway 49, thence in an easterly direction south of and parallel to the centerline of Highway 49 to a point 125 feet in parcel 12, thence in a southerly direction 140 feet to a point in said parcel, thence in a southeasterly direction 646 feet to a point in said parcel, thence in an easterly direction of said parcel 375 feet, thence in a southerly direction along the westerly property line of parcel 81,252 feet to the northeasterly corner of parcel 78.1, thence in a westerly direction along the property line of said parcel approximately 235 feet, thence in a southerly direction along the westerly property line of said parcel 210

feet, thence in an easterly direction along the southerly property line of said parcel 248 feet, thence in a northerly direction along the easterly property line of said parcel 78 feet to a point 40 feet south of and normal to the centerline of Forrest Street, thence in an easterly direction south of and parallel to the centerline of Forrest Street 25 feet to the Westerly property line of parcel 8.1, thence in a southerly direction along the westerly property line of said parcel approximately 184 feet to the southwest corner of said parcel, thence in an easterly direction along the property lines of parcels 77, 76, 75, 74, 73, 72 crossing Alexander Avenue to a point 40 feet east of and normal to the centerline of Alexander Avenue, thence in a northerly direction 40 feet east of and parallel to the centerline of Alexander Avenue approximately 200 feet, thence in an easterly direction along the southerly property line of parcel 66.1 for 192 feet, thence in a southerly direction along the westerly property line of parcels 65, 61, 60 for 860 feet, thence in an easterly direction along the southerly property line of parcel 58 and parcel 9 approximately 872 feet as shown on Map 15 to the northwesterly corner of Parcel 10, thence along the southwest property line of said parcel 520 feet, thence in a westerly direction along the northerly property line of Parcel 11 approximately 87 feet, thence in a southerly direction along the westerly property line of said parcel, crossing the Southern Railroad to a point 100 feet south of and normal to the centerline of the Southern Railroad, thence in a westerly direction 100 feet south of and parallel to the centerline of the Southern Railroad approximately 200 feet, as shown on Map 16, thence in a southerly direction along the westerly property line of parcel 9 to the corner of said parcel, thence in an easterly direction along the southerly property line of said parcel 9 and parcel 10 to the southeasterly corner of said parcel 10, thence in a southerly direction following along a line 40 feet west of and parallel to the centerline of Robinson Church Road crossing to the southeasterly property line of parcel 33 and following the southerly property line of said parcel and westerly property line of parcel 34, thence in an easterly direction along the southerly property line of said parcel crossing Quays Dairy Road 1138, thence in an easterly direction along the southerly property line of parcels 32, 25, and 24, thence in a northerly direction along the easterly property line of parcel 24 to a point 40 feet south of and normal to the centerline of Flowers Road 1161, thence in a westerly direction approximately 100 feet following along a line 40 feet south of and parallel to the centerline of Flowers Road, crossing to the easterly property line of parcel 20, thence in a northerly direction to the northeasterly corner of said parcel, thence in a westerly direction approximately 248 feet to the westerly property line of parcel 19, thence in a northerly direction along the property line of said parcel to a point 100 feet south of and normal to the centerline of the Southern Railroad, thence in a westerly direction following along a line 100 feet south of and parallel to the Southern Railroad approximately 900 feet crossing to the southeasterly corner of parcel 17, block B as shown on Map 13, 40 feet west of and normal to the centerline of Johnson Avenue, thence in a northerly direction along the easterly property lines of parcels 17, 18, 19, 21, 14 crossing School Circle/Old Charlotte-Concord Highway/to the southeasterly corner of parcel 12, Block H, 40 feet west of and

normal to the centerline of School Circle, thence in a northerly direction 560 feet along the easterly property line of said parcel, crossing Highway 49 to the southeasterly corner of parcel 68, thence in a northerly direction following the easterly property lines of parcel 68, 23-39, 40 feet west of and parallel to the centerline of Roberta Mill Road, thence crossing Parallel Drive to the southeasterly corner of parcel 36, block J, thence in a northerly direction along the easterly property lines of parcels 36 and 35, crossing Woodside Drive to the southeasterly corner of parcel 17, thence in a northerly direction along the easterly property line of parcel 17, 16.1, 16 for approximately 925 feet, thence in a northwesterly direction approximately 500 feet along the northerly property line of said parcel 16, thence in a southwesterly direction approximately 1,000 feet along the property line of said parcel 16, 15, and 14 to a point 182.7 feet in said parcel 14, thence in a northwesterly direction along the property lines of said parcel 14, parcel 11 and 10 approximately 450 feet to a point in said parcel 10, thence in a northeasterly direction approximately 167 feet along the property line of said parcel to the northeasterly corner of said parcel, thence in a northwesterly direction along the northeasterly property lines of parcels 10, 9, 8, 7.1, 7, 6, 5.1, thence in a westerly direction along the northerly property lines of parcels 5 and 4, thence in a southwesterly direction along the northwesterly property lines of parcels 3.1, 3, 2.2, 2.1, 2, 2.3, 1 crossing Morehead Road to a point located 40 feet west of and normal to the centerline of Morehead Road approximately 350 feet south of the northeasterly corner of parcel 6.1, as shown on Map 15, thence in a northerly direction along the northeasterly property line of said parcel following a line 40 feet west of and parallel to the centerline of Morehead Road, thence in a westerly direction approximately 1,350 feet along the northerly property line of parcels 6.1 and 6, thence in a southerly direction along the westerly property lines of said parcel 6, 7, and 8 approximately 3,270 feet to the southwesterly corner of parcel 8, thence in an easterly direction following the southerly property line of said parcel 7 to a point 40 feet west of and normal to the centerline of Cedar Street, thence in a southerly direction approximately 150 feet along the easterly property line of parcel 30.1, as shown on Map 14, following a line 40 feet west of and parallel to Cedar Street crossing Highway 49 to a point 40 feet south of and normal to the centerline of Highway 49, thence in an easterly direction following along a line 40 feet south of and parallel to the centerline of Highway 49 approximately 1,400 feet to the northeasterly corner of parcel 12.1, being the point of BEGINNING.

"ARTICLE III. MAYOR AND TOWN COUNCIL.

"Sec. 3.1. Temporary Officers. Until the initial election provided for by Section 4.1 of this Charter, Martha H. Marks is hereby appointed Mayor, and Joe L. Sims, Walter L. Hefner, Jr., Marshall R. Queen, O. C. Towell, Larry M. Lewis, Bobby J. Sides and Boyce O. Jenkins are hereby appointed councilmen of the Town of Harrisburg, and they shall possess and may exercise the powers granted to the Mayor and Town Council until their successors are elected and qualify pursuant to this Charter.

"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, and he shall hold office for two (2)

years. In the case of a vacancy in the office of Mayor, the Town Council shall by appointment fill the vacancy for the unexpired term. 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. 3.3. Composition of Town Council. The Town Council shall consist of seven (7) members to be elected by and from the qualified voters of the Town voting at large in the manner provided by Article IV.

"Sec. 3.4. Terms; Qualifications; Vacancies.

(a) Except for the initial terms of office, the members of the Town Council shall serve for terms of two (2) 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 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 Councilman shall refuse to qualify, or if there shall be any vacancy in the office of Councilman after election and qualification, the remaining members of the Council shall by majority vote appoint some qualified person to serve for the unexpired term. Any Councilman so appointed shall have the same authority and powers as if regularly elected.

"Sec. 3.5. Compensation of Mayor and Councilmen. The Town Council may fix its own compensation and allowances, and the compensation and allowances of the Mayor, in such sums as may be just and reasonable, effective following the next regular municipal election for seats on the Town Council. The compensation and allowances of the Mayor shall not be reduced during the then current term of office.

"Sec. 3.6. Organization of Council; Oaths of Office. The Town Council shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Council following each biennial election. 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 maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____; so help me, God.'

"Sec. 3.7. Meetings of Council.

The Town Council shall fix by ordinance 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 Councilmen, 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.

"Sec. 3.8. 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. The number required for a quorum shall not be affected by vacancies.

(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.

"Sec. 3.9. 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 clause of all ordinances shall be: 'BE IT ORDAINED by the Town Council of the Town of Harrisburg.' All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein, or unless some provision of the General Statutes provides otherwise.

"ARTICLE IV. ELECTION PROCEDURE.

"Sec. 4.1. Regular Municipal Elections. Regular municipal elections shall be held on the Tuesday after the first Monday in November of each odd-numbered year, beginning in 1973.

"Sec. 4.2. 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; Terms; Compensation. The Town Council may 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 Town Council and shall receive such compensation as the Council shall determine.

"Sec. 5.2. Duties of the 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; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Sec. 6.1. Town Clerk. The Town Council shall appoint a Town clerk to keep a journal of the proceedings of the 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 shall appoint a Tax Collector to collect all taxes, licenses, fees, and other monies 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 Finance Officer. The Town Council may appoint a Town Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.4. Consolidation of Functions. 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 Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions. The Town 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 such other positions as it deems advisable to insure the efficient administration of the Town's affairs, and may, in its discretion, appoint a person to supervise all Town departments and may delegate to such person the power of appointment and removal of department heads and employees, other than the Town Attorney.

"ARTICLE VII. FINANCE.

"Sec. 7.1. Custody of Town Money. All monies received by the Town for and in connection with the business of the Town government shall be paid promptly into the Town depository. Such institution 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 monies belonging to the Town shall accrue to the benefit of the Town. All monies belonging to the Town shall be disbursed only in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 7.2. Issuance of Bonds. The Town may issue 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 an accountant certified by the Local Government Commission, 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.

"Sec. 7.5. Taxation. The territory within the corporate limits, and its citizens and property, shall be subject to municipal taxes levied by the Town for the fiscal year 1973-74 and subsequent years. The Town may obtain from Cabarrus County, and the Cabarrus County Tax Supervisor shall provide upon request, a record of property within the corporate limits which was listed for taxation as of January 1, 1973.

"ARTICLE VIII. CLAIMS AGAINST THE TOWN.

"Sec. 8.1. Tort Claims. All claims or demands against the Town arising in tort shall be presented to the Town Council in writing, signed by the claimant or his attorney or agent, within ninety (90) days after such claim or demand is due or the cause of action accrues. No suit or action shall be brought on such a claim or demand within thirty (30) days or after the expiration of twelve (12) months from the time such claim or demand is presented. Unless the said claim or demand is so presented within ninety (90) days, and unless suit is brought within twelve (12) months thereafter, any action thereon shall be barred."

Sec. 5. If any provision of this act or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or application 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. 6. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 7. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1973.