

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 246
HOUSE BILL 645

AN ACT TO INCORPORATE THE CITY OF LOCUST IN STANLY COUNTY
SUBJECT TO AN ELECTION.

The General Assembly of North Carolina enacts:

Section 1. (a) The Board of Elections in Stanly County is hereby required to call and conduct a special election on or before September 1, 1973, for the purpose of submitting to the qualified voters for the area hereinafter described as the proposed corporate limits of the City of Locust, the question whether or not such area shall be incorporated as a municipal corporation known as the City of Locust. On the election day, the polls shall be open from 6:30 a.m. until 7:30 p.m. The Board of Elections for Stanly 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 Chapter 163 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 Stanly County shall cause to be posted at the Locust 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 election; 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 Locust Community.

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

Sec. 2. If a majority of the votes cast in such special election shall be cast "AGAINST Incorporation of the City of Locust", then "the Charter of the City of Locust" 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 City of Locust" then "the Charter of the City of Locust" 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 Stanly County Board of Elections in accordance with G.S. 163-301.

Sec. 4. The following provisions of law shall constitute the Charter of the City of Locust in Stanly County.

"THE CHARTER OF THE CITY OF LOCUST

"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 'City of Locust', and shall be vested with all property which may be acquired by the City, 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 City, 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 City 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 City of Locust 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 City of Locust, until changed in accordance with law are as follows:

Starting at the Stanfield boundary line on Rock Hole Creek, proceed west to southeast corner of Joel Huneycutt's property; follow property line six hundred feet west then northwest to junction of County Road 1142 and Hwy. 27. From Hwy. 27, proceed northeast and follow along the western boundary of Lewis Kluttz property. Proceed to the southwest corner of the Charlie Hartsell property and follow property line to the northeast corner then proceed northeast along the western boundary and to the northwestern corner of Western Hills development. From here proceed east to a point three hundred feet from center line of Hwy. 200, five hundred feet north of Danita Drive. Proceed north three hundred feet from center line of Hwy. 200 to a point two hundred feet from dead end street known as Edgewood Drive. Proceed west to end of dead end street to southwest corner of Dwain Tucker lot. Turn northwest across Meadow Creek Road to corner of Meadow Creek Church cemetery. Follow boundary of cemetery two hundred fifteen feet from center line of Meadow Creek Road. Following Meadow Creek Road two hundred fifteen feet from center line proceed northeast

crossing Hwy. 200 to a point three hundred fifteen feet from center line and two hundred fifteen feet from center line of Bethel Church Road; proceed south along Hwy. 200 three hundred fifteen feet from center line, with the exception of the Glen Almond development and Thurman Snyder property, which shall be four hundred fifteen feet, to a point due east of Danita Drive and Hwy. 200 intersection and west northwest of Gum Pond. Proceed southeast to what is known as Gum Pond at the corner of Glen Smith property. From here follow north and east boundary of Glen Smith property to center line of Hwy. 27. Follow center line of Hwy. 27 east to northeast corner of Roy Huneycutt property. Proceed south six hundred feet to a point, turn west to a point forty feet from southwest corner of Glen Smith cabin, but at no time less than two hundred feet from center line of Hwy. 27; proceed west to a point on crest of hill three hundred fifteen feet south of center line of Hwy. 27; proceed south southwest along western boundary of Larry Barbee property to Elm Street then southwest to corner of Stanfield city limits at northeast corner of the B. E. Holbrook's property. Continue following Stanfield city limits back to starting point.

"ARTICLE III. MAYOR AND CITY COUNCIL

"Sec. 3.1. Temporary Officers. Until the initial election provided for by Section 4.1 of this Charter, Buren Mullis, Ritchie Tucker, Glenn Almond, Herbert Dees, Wilson Barbee, Jacqueline Barbee, Shirley Kluttz, and Joel Huneycutt are hereby appointed Councilmen of the City of Locust, and they shall possess and may exercise the powers granted to the Mayor and City 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 the City Council from its own members, and he shall hold office for two (2) years. In the case of a vacancy in the office of Mayor, the City Council shall by appointment fill the vacancy for the unexpired term. The Mayor shall be the official head of the City government and shall preside at all meetings of the City 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 City. The City 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 City Council. The City Council shall consist of eight (8) members to be elected by and from the qualified voters of the City 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 City 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 a member of the City Council; or to serve in such capacity, unless he is a resident and a qualified voter of the City.

(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 City 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 City 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 City 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 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 City 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 City 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 City 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 the members present and voting.

"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 City Council of the City of Locust'. 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. In the regular election in 1973, there shall be elected eight (8) councilmen. The four (4) candidates receiving the highest number of votes shall be elected for terms of four (4) years and the four (4) candidates receiving the next highest number of votes shall be elected for terms of two (2) years. Beginning in the regular election in 1975, and in subsequent elections, all terms shall be for four (4) years.

"Sec. 4.2. Regulation of Elections. All municipal elections shall be conducted by the Stanly County Board of Elections in accordance with the general laws of North Carolina relating to municipal elections, except as otherwise herein provided. The municipal elections shall be non-partisan and decided by a simple plurality. No primary election shall be held.

"ARTICLE V. CITY ATTORNEY

"Sec. 5.1. Appointment; Qualifications; Terms; Compensation. The City Council shall appoint a City 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 City during his tenure. The City Attorney shall serve at the pleasure of the City Council and shall receive such compensation as the Council shall determine.

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

"ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

"Sec. 6.1. City Clerk. The City Council shall appoint a City 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 City, and to perform such other duties as may be required by law or as the Council may direct.

"Sec. 6.2. City Tax Collector. The City Council shall appoint a Tax Collector to collect all taxes, licenses, fees, and other monies belonging to the City subject to the provisions of this Charter and the ordinances of the City, 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. City Finance Officer. The City Council may appoint a City 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 City Council may, in its discretion, consolidate the functions of any two or more of the positions of City Clerk, City Tax

Collector, and City 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 City 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 City Council may create and fill by appointment such other positions as it deems advisable to insure the efficient administration of the City's affairs, and may, in its discretion, appoint a person to supervise all City departments and may delegate to such person the power of appointment and removal of department heads and employees, other than the City Attorney.

"ARTICLE VII. FINANCE

"Sec. 7.1. Custody of City Money. All monies received by the City for and in connection with the business of the City Government shall be paid promptly into the City depository. Such institution shall be designated by the City 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 City shall accrue to the benefit of the City. All monies belonging to the City 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 City 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 for 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 City 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 City or any of its officers. The City Council shall select the public accountant, and the results of such audit shall be made available for inspection by any interested citizen of the City, and may be published if so ordered by the City 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 City for the fiscal year 1973-74 and subsequent years. The City may obtain from Stanly County, and the Stanly 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 CITY

"Sec. 8.1. Tort Claims. All claims or demands against the City arising in tort shall be presented to the City 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. 6. 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. 7. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 8. 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 19th day of April, 1973.