

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 348
HOUSE BILL 760

AN ACT TO REVISE AND REWRITE THE CHARTER OF THE TOWN OF
PITTSBORO AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

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

"THE CHARTER OF THE TOWN OF PITTSBORO

"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Section 1.1. Incorporation and General Powers. The Town of Pittsboro shall continue to be a body politic and corporate under the name and style of the Town of Pittsboro, 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 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 Pittsboro shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina, it would be competent for this Charter specifically to enumerate.

"Sec. 1.4. Form of Government. The form of government of the Town of Pittsboro shall be the Council-Manager form, as specified in this Charter.

"ARTICLE II. CORPORATE BOUNDARIES

"Sec. 2.1. Existing Corporate Boundaries. The present boundaries of the Town shall remain intact and are described as follows:

BEGINNING at a point in the center of the concrete bridge on Old Siler City-Pittsboro Highway which bridge is located North about 70 degrees West

approximately 1,000 feet from Dark's Hatchery and running thence from said point of beginning South 27 degrees East a distance of approximately 7,600 feet to a point in the center of Bernice Griffin driveway and running thence due West along the center of said driveway a distance of 235 feet and thence South 5 degrees West a distance of 650 feet, thence South 67 degrees West a distance of 475 feet, thence North 55 degrees West 200 feet, thence South 4 degrees West 750 feet to a point on the northern side of that driveway or road leading from Highway 15-501 in a westerly direction beyond Harvey Brown's house, thence along and with the northern margin of said road due East a distance of 1,000 feet to a point in the western margin of the right-of-way of Highway 15-501 and thence along the western margin of Highway 15-501 northerly a distance of 1450 feet to the center of Bernice Griffin's driveway and westerly with center of said driveway 75 feet, thence North 35 degrees East 8,400 feet to a point which is located 500 feet due North from the intersection of the southern margin of Thompson Street and the eastern side of a street running on the eastern side of St. Andrews Christian Church and running thence from said point in a northwesterly direction to a point located due North 675 feet from the center of the intersection of Parke Drive and Middle Street and thence South 55 degrees West 650 feet, to a point on northern margin of Parke Drive, thence along northern margin of Parke Drive, its various courses a distance of about 375 feet, thence North 18 degrees West 200 feet, thence North 35 degrees West 600 feet, thence South 10 degrees West 790 feet, thence South 68 degrees West 200 feet, thence South 14 degrees West 600 feet, thence South 55 degrees West 3,450 feet to the point of BEGINNING.

"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.

(a) 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 on a question, 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.

(b) Any vacancy occurring in the office of Mayor shall be filled by the Board of Commissioners from their number and any person so appointed shall serve the remainder of the unexpired term.

"Sec. 3.3. Terms; Qualifications; Vacancies.

(a) The members of the Board of Commissioners shall serve for terms of four years, and the Mayor shall serve for a term of two years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter, provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the 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 Commissioner, the Board of Commissioners shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.4. Organization of Board of Commissioners; Oaths of Office. The Board of Commissioners shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board 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 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. 3.5. Meetings of Board.

(a) The Town Board shall fix suitable times for its regular meetings, which shall be as often as once monthly.

(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 other than matters pertaining to personnel and other matters allowed by general law.

(c) The Mayor, the Mayor Pro Tempore, or any two members of the council may at any time call a special council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the Mayor and each councilman or left at his usual dwelling place at least six hours before the meeting. Special meetings may be held at any time when the Mayor and all members of the council are present and consent thereto, or when those not present have signed a written waiver of notice. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice.

"Sec. 3.6. Quorum. A majority of the members elected to the Town Board and serving 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.

"Sec. 3.7. 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 Pittsboro.' All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"Sec. 3.8. Compensation of Mayor and Commissioners. From the date of ratification of this act, the Mayor shall, until appointment of a Town Manager receive a salary of two thousand dollars (\$2,000) per year and after appointment of a Town Manager the Mayor shall receive the sum of thirty dollars (\$30.00) for each regular and special meeting attended, not to exceed the sum of one thousand two hundred dollars (\$1,200) per year. Each commissioner shall from the date of ratification of this act receive the sum of twenty-five dollars (\$25.00) for each regular and special meeting attended, not to exceed the sum of one thousand dollars (\$1,000) per year. The Board of Commissioners shall have authority to alter the compensation herein fixed as by general law provided.

"ARTICLE IV. ELECTION PROCEDURE

"Sec. 4.1. Election. On Tuesday after the first Monday in November, 1973, and every four years thereafter there shall be elected two commissioners, and on Tuesday after the first Monday in November, 1975, and every four years thereafter, there shall be elected three commissioners. The present members shall serve until their terms expire. On Tuesday after the first Monday in November, 1973, and every two years thereafter there shall be elected a Mayor.

"ARTICLE V. TOWN MANAGER

"Sec. 5.1. Appointment of Town Manager. The Board of Commissioners shall appoint a Town Manager who shall be the administrative head of the Town government responsible for the supervision and administration of all departments and employees except the Town Attorney. The Town Manager shall be appointed with regard to merit only, and he need not be a resident of the Town at the time of his appointment. He shall hold office during the pleasure of the Board of Commissioners and shall receive such compensation as it shall fix by ordinance.

"Sec. 5.2. Powers of Town Manager. The Town Manager so appointed shall:

- (a) Be the administrative head of the Town government;
- (b) See that within the Town the laws of the State and the ordinances, resolutions, and regulations of the Board of Commissioners are faithfully executed;
- (c) Attend all meetings of the Board of Commissioners, and recommend for adoption such measures as he shall deem expedient;
- (d) Make reports to the Board of Commissioners from time to time upon the affairs of the Town, and keep the Board fully advised of the Town's financial condition and its future financial needs;
- (e) Appoint and remove all employees of the Town, except the Town Attorney, and all appointments and removals of department heads made by the Manager shall be reported to the Board of Commissioners at its next succeeding meeting; and

(f) Perform all other duties as may be required by the Board of Commissioners.

"Sec. 5.3. Appointment and Removal of Officers. Such municipal officers and employees as the governing body shall determine are necessary for the proper administration of the city shall be appointed by the manager, and any such officer or employee may be removed by him; but the manager shall report every such appointment and removal to the governing Board at the next meeting thereof following any such appointment or removal.

"Sec. 5.4. Control of Officers and Employees. The officers and employees of the municipality shall perform such duties as may be required of them by the manager, under general regulations of the governing Board.

"ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

"Sec. 6.1. Town Clerk. The Town Manager may 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 Town Manager may direct.

"Sec. 6.2. Town Tax Collector. The Town Manager may appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to 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 Manager 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 Manager may, with the approval of the Board of Commissioners, consolidate 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 Manager, may also, with the approval of the Board of Commissioners himself perform all or any part of the functions of any of the named offices, in lieu of appointing other persons to perform the same.

"ARTICLE VII. TOWN ATTORNEY

"Sec. 7.1. 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. 7.2. 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, Town Manager, 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 of Town Attorney.

"ARTICLE VIII. FINANCE

"Sec. 8.1. Custody of Town Money. All moneys received by the Town for or in connection with the business of the Town Government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Town Board 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 Local Government Budget and Fiscal Control Act.

"Sec. 8.2. 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 in accordance with the Local Government Budget and Fiscal Control Act.

"ARTICLE IX. POLICE

"Sec. 9.1. The jurisdiction of the police force is hereby extended three miles beyond the corporate boundaries, and is further 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 Town, whether located within or outside the corporate limits.

"ARTICLE X. STREET AND SIDEWALK IMPROVEMENTS

"Sec. 10.1. Street Improvements, Assessment of Costs. In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Board of Commissioners is hereby authorized to make street improvements and to assess the total cost thereof against abutting property owners in accordance with provisions of this Article.

"Sec. 10.2. When Petition Unnecessary. The Board of Commissioners may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property owners at an equal rate per foot, without the necessity of a petition, upon the finding by the Board as a fact:

- (a) That the street improvement project does not exceed 1,200 linear feet and
- (b) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or
- (c) That it is in the public interest to connect two streets, or portions of a street already improved, or
- (d) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of street without petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 10.3. Street Improvement Defined. For the purposes of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening,

paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 10.4. Sidewalks; Assessment of Costs. In addition to any authority which is now or may hereafter be granted by the General Statutes 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 without petition according to standards and specifications of the Town, and to assess the total cost thereof against the property owners.

If a sidewalk is constructed on only one side of the street and in a residential zone the cost thereof may be assessed against the property abutting on both sides of the street, unless there already exists a sidewalk on the other side of the street, the total cost of which has been assessed against the abutting property.

"Sec. 10.5. Assessment Procedure. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Commissioners shall comply with the procedure provided by the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 10.6. Effective Assessment. The effect of the act levying assessments under the authority of this Article shall for all purposes be the same as if assessed and levied under authority of the General Statutes of North Carolina.

"ARTICLE XI. WATER AND SEWER

"Sec. 11.1. Alternative Methods of Assessment. In addition to, and as alternatives to the method provided in the General Statutes for assessing the costs of water and sewer lines and laterals, the Board of Commissioners, if in its opinion it would be more equitable to do so, is hereby authorized in its discretion to levy any such assessments according to either of the following methods: (1) equally against each of the lots capable of being served by such line or lines or (2) on the basis of the footage of land upon a public street by an equal rate per foot of such frontage.

In lieu of assessing the total cost of a particular project as herein provided, the governing body may annually, between the first days of January and July of each year, determine the average cost of installing water and sewer mains or lines and on the basis of such determination may make assessments of such average cost during the following fiscal year beginning July 1. The average cost of such installation shall include the cost of the particular size and material of lines completed during the preceding calendar year. It may also include the anticipated increase in labor and materials costs based upon the average of such increases during the preceding five calendar years. The assessment of the average cost of such line shall not be made until after the particular assessment project has been completed. The purpose of this section is to distribute more equitably the cost of the installation of water and sewer lines throughout the Town, to permit a property owner to know in advance what the cost of installation of water and sewer lines benefiting his property will be; and to permit the most expeditious assessment of cost against property after completion of the installation of such lines. The actual cost of acquisition of rights-of-way may also be assessed as a part of the cost of an individual project. If the right-of-way costs have not been determined and assessed with the

assessment of the average installation costs at the time of the completion of the project, such costs may be assessed separately when they are determined.

"Sec. 11.2. Water Connections. In addition to the authority granted by the General Statutes the Board of Commissioners may require owners of improved property which may be based upon or near any water line of the Town to connect with the Town water system, and may establish and collect reasonable charges for such connections.

"ARTICLE XII. REFUSE, WEEDS, AND TRASH

"Sec. 12.1. Property Kept Free of Offensive Matter. It shall be the duty of every property owner in the Town to keep his property free from noxious weeds, trash, and all other forms of offensive animal or vegetable matter or refuse which may be dangerous or prejudicial to the public health or which may constitute a public nuisance.

"Sec. 12.2. Removal of Offensive Matter; Charges a Lien. The Board of Commissioners may by ordinance establish a procedure whereby Town forces may clean, cut, and remove any weeds, trash, refuse, or other offensive matter from any property upon failure of the owner or occupant after 10 days' notice to do so. In such event the cost of such cleaning, cutting and removal shall become a lien upon the particular property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the Town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs and penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes.

"ARTICLE XIII. CLAIMS AGAINST THE TOWN

"Sec. 13.1. Presentation of Claims; Suit Upon Claims. (a) All claims or demands against the Town of Pittsboro 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 90 days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within 30 days or after the expiration of 12 months from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 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 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. 13.2. Settlement of Claims by Town Manager. The Town Manager may with the approval of the Board of Commissioners settle claims against the Town for (1) personal injury 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 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 Manager 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. All such settlements, and all such releases, shall be approved in advance by the Town Attorney."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Pittsboro 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 Pittsboro.

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

Sec. 4. 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. 5. No law heretofore repealed expressly or by implications, 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. 6. (a) All existing ordinances and resolutions of the Town of Pittsboro and all existing rules or regulations of departments or agencies of the Town of Pittsboro, 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 Pittsboro or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 7. 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. 8. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. This act shall be effective upon its ratification; provided, however, that the present system of government (Mayor-Council) shall continue until a Town Manager shall have been appointed, which shall be accomplished prior to January 1, 1974.

In the General Assembly read three times and ratified, this the 7th day of May, 1973.