

NORTH CAROLINA GENERAL ASSEMBLY  
1973 SESSION

CHAPTER 376  
HOUSE BILL 751

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF  
CAROLINA BEACH AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

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

"THE CHARTER OF THE TOWN OF CAROLINA BEACH

"ARTICLE I

"INCORPORATION AND CORPORATE POWERS

"Section 1.1. Incorporation and General Powers. The Town of Carolina Beach shall continue to be a body politic and corporate under the name of the 'Town of Carolina Beach', and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. Exercise of Powers. All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provisions, as provided by ordinance or resolution of the Town Council and as provided by the general laws of North Carolina pertaining to cities and towns.

"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 Carolina Beach shall have and may exercise all powers which are granted to cities and towns 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 Carolina Beach shall be and remain as they now are until altered in the manner provided by law. A description of the town boundaries shall be maintained as provided by G.S. 160A-22.

Extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

### "ARTICLE III

#### "MAYOR AND TOWN COUNCIL

"Sec. 3.1. Composition of Town Council. The Town Council shall consist of five members to be elected by the qualified voters of the Town voting at large. Elections shall be nonpartisan and decided by plurality as provided in G.S. 163-292.

"Sec. 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be elected by the Town Council from among its members. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Town Council. The Mayor shall have the same power as other members of the Council to vote upon any question, or upon the appointment of officers, but he shall have no power to veto. 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 Council shall elect from among its members a Mayor Pro Tempore, to serve at the pleasure of the Council. A Councilman serving as Mayor Pro Tempore shall be entitled to vote on all matters and shall be considered a Councilman for all purposes, including the determination of whether a quorum is present. During the absence of the Mayor, the Council may confer upon the Mayor Pro Tempore any of the powers and duties of the Mayor. If the Mayor should become physically or mentally incapable of performing his duties, the Council may proceed as provided in G.S. 160A-70.

"Sec. 3.3. Terms; Qualifications; Vacancies. (a) The members of the Town Council shall serve for terms of four years, and the Councilman elected as Mayor shall serve for a term of two years, beginning at the organizational meeting of the Council following regular town elections.

(b) Vacancies shall be filled as provided in G.S. 160A-63.

"Sec. 3.4. Organization of Town Council; Oaths of Office. The organizational meeting of the Council after each election shall take place at the time and as provided in G.S. 160A-68. Each Councilman and the Mayor shall take, subscribe, and have entered in 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. 3.5. Meetings. (a) The Town Council shall fix suitable times for its regular meetings, which shall be as often as once monthly.

(b) Special meetings may be called and held as provided in G.S. 160A-71. Voting procedures, quorum, and the keeping of minutes shall be done as provided in G.S. 160A-72, 160A-74, and 160A-75.

"Sec. 3.6. Ordinances and Resolutions. Ordinances shall be adopted, amended, pleaded, proved, and repealed in accord with the general laws of North Carolina. The enacting clause of all ordinances shall be: 'Be it ordained by the Town Council of the

Town of Carolina Beach.' Ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV  
"ELECTIONS

"Sec. 4.1. Regular Municipal Elections. Regular elections shall be held on the day provided by general law for municipal elections. In the regular election in 1973, and quadrennially thereafter there shall be elected three Councilmen to serve for terms of four years. In the regular election in 1975, and quadrennially thereafter, there shall be elected two Councilmen to serve for terms of four years. All Town elections shall be conducted in accord with the general laws of North Carolina relating to municipal elections.

"ARTICLE V  
"TOWN MANAGER

"Sec. 5.1. Council-Manager form of government. The Town of Carolina Beach shall operate under the council-manager form of government as provided in Chapter 160A, Article 7, Part 2, of the General Statutes of North Carolina.

"ARTICLE VI  
"TOWN ATTORNEY

"Sec. 6.1. Appointment; Qualifications; Term; Compensation. The Town Council shall appoint a Town Attorney who shall be an attorney at law licensed to practice 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 Council and shall receive such compensation as the Council may determine.

"Sec. 6.2. Duties of town attorney. The Town Attorney shall prosecute and defend suits for and against the Town; advise the Mayor, Council, Manager, and other officials with respect to Town affairs; draw proposed ordinances when requested to do so; inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; attend meetings of the Council upon request; and perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VII  
"ADMINISTRATIVE OFFICERS AND EMPLOYEES

"Sec. 7.1. Town Clerk. The Council shall appoint a Town Clerk, who shall perform the duties prescribed in G.S. 160A-171.

"Sec. 7.2. Town Accountant. There shall be a finance officer who shall be appointed by the Council to perform duties in accordance with the Local Government Budget and Fiscal Control Act (Chapter 159 of the General Statutes of North Carolina, Article 3).

"ARTICLE VIII  
"FINANCE

"Sec. 8.1. In general. The financial affairs of the Town of Carolina Beach shall be governed by the Local Government Budget and Fiscal Control Act and other applicable provisions of this Charter and the general laws of North Carolina.

"Sec. 8.2. Advertising. The Town Council is authorized to appropriate funds for the purpose of aiding in the development of the Town by means of advertising, and for such

other purposes as will increase the population, taxable property, and industrial and business development of the Town.

## "ARTICLE IX

### "STREET AND SIDEWALK IMPROVEMENTS

"Sec. 9.1. Authority. In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Town Council is hereby authorized to make such improvements and to assess the total cost thereof against abutting property owners in accordance with the provisions of this Article, without the necessity of a petition of property owners.

"Sec. 9.2. Sidewalk Improvements. In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Town Council is hereby authorized to order to be made or to make sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, without the necessity of a petition of property owners.

"Sec. 9.3. Assessment Procedure. In ordering street and sidewalk improvements or sidewalk repairs, without a petition and assessing the cost thereof under authority of this Article, the Town Council shall follow the procedure provided by the General Statutes relating to street and sidewalk assessments, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 9.4. Effect of Assessments. The effect of the act of the levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of the General Statutes.

## "ARTICLE X

### "CLAIMS AGAINST THE TOWN

"Sec. 10.1. Filing of Claims. No action shall be instituted or maintained against the Town of Carolina Beach upon any claim or demand whatsoever, of any kind or character, until the claimant shall have first presented his or her claim or demand in writing to the Town Council, who shall have declined to pay or settle the same as presented, or for ten days after such presentation neglected to enter or cause to be entered upon its minutes its determination in regard thereto; but nothing herein contained shall be construed to prevent any statute of limitation from commencing to run at the time such claim accrued or demand arose, or in any manner interfere with its running.

"Sec. 10.2. Notice of Claims Before Suit. No action for damages against the Town of Carolina Beach of any character whatsoever to either person or property shall be instituted against the Town; unless within sixty days after the happening or infliction of the injury complained of by the complainant, his executors or administrators, shall have given notice to the Town Council of such injury, in writing, stating in such notice the date and place of happening or infliction of such injury, the manner of such infliction, the character of the injury, and the amount of damages claimed therefor; but this shall not prevent any time of limitation prescribed by law from commencing to run at the date of the happening or infliction of such injury, or in any manner interfere with its running."

**Sec. 2.** The purpose of this act is to revise the Charter of the Town of Carolina Beach 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 which 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 relating to title to land built up and constructed as a result of any erosion control projects or work.

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

(c) Any acts relating to the collection of taxes of the Town of Carolina Beach.

**Sec. 4.** The following acts or portions of acts, having served the purposes for which enacted, or having been consolidated into this act, are hereby repealed:

<u>CHAPTER</u>	<u>LAWS</u>
117	Private Laws, 1925
195	Private Laws, 1927
78	Private Laws, 1929
188	Private Laws, 1933
21	Private Laws, 1935
238	Public-Local Laws, 1937
334	Public-Local Laws, 1939
156	Public-Local Laws, 1941
217	Public-Local Laws, 1941
614	Session Laws, 1943
660	Session Laws, 1945
975	Session Laws, 1945
866	Session Laws, 1947
1045	Session Laws, 1947
642	Session Laws, 1949
126	Session Laws, 1953
622	Session Laws, 1961
623	Session Laws, 1961
1219	Session Laws, 1963

**Sec. 5.** No provision of this act is intended, nor shall any 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, any action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provisions of law repealed by this act.

**Sec. 6.** No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

**Sec. 7.** (a) All existing ordinances and resolutions of the Town of Carolina Beach, and all existing rules or regulations of departments or agencies of the Town of Carolina Beach, 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 Carolina Beach or any of its departments or agencies shall be abated or otherwise affected by the enactment of this act.

**Sec. 8.** Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**Sec. 9.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

**Sec. 10.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1973.