

NORTH CAROLINA GENERAL ASSEMBLY  
1973 SESSION

CHAPTER 514  
HOUSE BILL 795

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF  
MEBANE, AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

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

"THE CHARTER OF THE TOWN OF MEBANE

"ARTICLE I. INCORPORATION AND GENERAL POWERS

"Section 1.1. Incorporation and general powers. The Town of Mebane shall continue to be a body politic and corporate under the name and style of the 'Town of Mebane', 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. 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 Mebane 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.

"Sec. 1.3. 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 cities and towns.

"Sec. 1.4. Form of government. The Town of Mebane shall operate under the Council-Manager form of government as provided in Part 2, Article 7, Chapter 160A of the General Statutes of North Carolina, subject to the modifications of this Charter. Nothing contained in this Charter shall be construed to prevent the form of government of the Town of Mebane from being changed as by law provided.

"ARTICLE II. CORPORATE BOUNDARIES

"Sec. 2.1. Existing corporate boundaries. (a) The corporate limits of the Town shall be those existing at the time of the ratification of this Charter and as the same may be altered from time to time in accordance with law. The Town Engineer is responsible for preparing a map and description of the corporate limits in accordance with G.S. 160A-22, and the Town Clerk is responsible for maintaining this map and description.

"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 TOWN COUNCIL

"Sec. 3.1. Number and election of members of Town Council. The Town Council shall consist of five members elected at large by and from the qualified voters of the Town for staggered terms of four years and until their successors are elected and qualified. The members of the present Board of Commissioners of the Town shall form the Town Council until such times as their regular terms shall expire and until their successors are elected and qualified.

"Sec. 3.2. Mayor. The Mayor of the Town shall be elected at large by and from the qualified electorate for a term of four years or until his successor is elected and qualified. The Mayor currently in office shall hold said office until his normal term shall expire. He shall be the official head of the town government and shall preside at all meetings of the Board of 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 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 Town Council shall choose one of its members 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 Town Council.

"Sec. 3.3. Power and organization of Town Council. All legislative powers of the Town shall be vested in the Town Council. The Town Council elected as hereinafter provided shall meet at 10:00 o'clock in the forenoon on the first Monday following its election for the purpose of executing the oath of office, and electing a Mayor Pro Tempore. The meeting shall be presided over by the Town Clerk who shall certify to the incumbent Mayor the results of the election and cause the same to be entered in the minutes of the Council. After receiving the oath of office, the newly elected Mayor shall preside over the organizational meeting. The organization of the Council shall take place notwithstanding the absence, death, refusal to serve, failure to qualify, or nonelection of one or more members, but at least a quorum of the members must be present. Any member entitled to make the aforesaid oath who is not present at the time fixed therefor, may make oath at any time thereafter.

"Sec. 3.4. Meetings. The Town Council shall fix suitable times for its regular meetings. Special meetings shall be called and held in accordance with G.S. 160A-71. Meetings of the Town Council may also be called by the Mayor or Mayor Pro Tempore to consider emergency matters without six-hour notice when the nature of the

emergency is such that it would be impractical or impossible to give such notice. Notice of emergency meetings may be given by any reasonable method, including telephone.

"Sec. 3.5. General procedure. A majority of the members of the Town Council shall constitute a quorum. Its meetings shall be public, and the Mayor, who shall be the official head of the Town, shall, if present, preside. In the absence of the Mayor, the Mayor Pro Tempore of the Council shall preside, and in the absence of both, a Chairman Pro Tempore shall be chosen. The Town Clerk shall be ex officio clerk of the Town Council, and shall keep records of its proceedings; but in case of his temporary absence, or in case of a vacancy in the office, the Town Council may elect by ballot, a temporary clerk, who shall be sworn to the faithful discharge of his duties and may act as Clerk of the Town Council until a Town Clerk is chosen and qualified. On request of one member, the vote shall be by yeas and nays and shall be entered upon the records. Three affirmative votes at least shall be necessary for the passage of any order, ordinance, resolution or vote. Notwithstanding G.S. 160A-75, ordinances may be finally passed on first reading with the assent of a majority of the Town Council.

"Sec. 3.6. Vacancies. Vacancies in the Town Council shall be filled by the Council for the remainder of the unexpired terms. In case of a vacancy in the office of Mayor, the remaining members of the Council shall choose his successor for the unexpired term. A member of the Council may be selected as Mayor but may not also serve as a councilman.

"Sec. 3.7. Compensation. (a) The Town Council shall fix or approve the salaries and allowances of all Town officers and employees.

(b) The Council may fix its own compensation and the compensation of the Mayor and any other elected officers of the Town in accordance with G.S. 160A-64.

"Sec. 3.8. Administrative Officers. There shall be a Town Attorney, a Town Clerk, a Town Finance Officer, and a Town Engineer who shall be appointed by the Town Council and who shall perform those duties prescribed by law or by the Council pursuant to law.

"Sec. 3.9. Combination of offices. The Town Council may combine the office of Town Finance Officer with the office of Town Clerk, in its sole discretion.

#### "ARTICLE IV. ELECTION PROCEDURE

"Sec. 4.1. Municipal Elections. Elections for Mayor and Town Council shall be nonpartisan and decided by plurality in accordance with G.S. 163-292.

"Sec. 4.2. Election procedure. All elections and referendums of the Town of Mebane shall be held and conducted as provided by the applicable General Statutes of North Carolina.

"Sec. 4.3. Absentee voting. Absentee voting will not be permitted in any Town of Mebane municipal election.

#### "ARTICLE V. STREET AND SIDEWALK IMPROVEMENTS

"Sec. 5.1. 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 Town Council is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

"Sec. 5.2. When Petition Unnecessary. The Town Council 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 front foot, without the necessity of a petition, upon the finding by the Council as a fact:

(a) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

(b) That it is in the public interest to connect two streets, or portions of a street already improved, or

(c) 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 portions 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. 5.3. Street improvement defined. For the purpose 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. 5.4. 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 Town Council 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. 5.5. Assessment Procedure. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Town Council shall comply with the procedure provided in the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 5.6. Effect of Assessment. The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if assessed where levied under authority of the General Statutes of North Carolina.

#### "ARTICLE VI. FINANCE AND TAXATION

"Sec. 6.1. In general. The fiscal affairs of the Town shall be governed by Chapter 159 of the General Statutes.

#### "ARTICLE VII. WATER AND SEWER IMPROVEMENTS

"Sec. 7.1. Laterals included in cost. In ordering water or sewer line extensions, or both, the assessment of the cost thereof under the authority given by the General Statutes, the Town Council is hereby authorized to include in such extensions water and sewer line laterals, and to include the cost of such laterals in the total cost to be assessed upon abutting properties.

"Sec. 7.2. Classification and exemption. Where water or sewer lines are constructed across or through lots or tracts of land or when water or sewer lines, or both, are installed along both sides of corner lots and are financed in whole or in part by assessment, the Council may by uniform rule classify such lines for assessment as in its judgment will represent the benefits derived. The Schedules of exemptions may be classified as to land uses (residential, business, commercial, industrial, office and institutional, agricultural, or other classifications) and shall be uniform for each such classification used; provided, however, that no schedule of exemptions may provide for exemption of more than seventy-five percent (75%) of the frontage of any side of a corner lot, or 150 feet, whichever is greater.

"Sec. 7.3. Alternative methods of assessing. 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 Town Council, 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; or (3) on an acreage basis according to the acreage served by said line; or (4) any combination of the above.

In lieu of assessing the total cost of a particular project as herein provided, the Town Council 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 on 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 lines shall not be made until after the particular assessment project has been completed. The Council may also by ordinances, establish a fixed rate per front foot for water and sewer installation and cause that rate to be assessed. Provided, however, said fixed rate may not exceed the actual cost of such service. A fixed rate so established may be revised, modified or repealed by ordinance of the Council. 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 cost against property after completion of 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. 7.4. Payment of assessments. Any special assessment of the Town for any purpose amounting to less than one hundred dollars (\$100.00) shall be paid in cash not later than the next due date of Town taxes rather than in annual installments and shall

bear interest as taxes. Installment payments on special assessments shall uniformly fall due on the date that taxes are due and payable.

"Sec. 7.5. Acreage charges. In addition to water and sewer service charges and connection charges, the Town Council may establish and collect acreage charges for the privilege of connecting to the Town water and sewerage systems, both within and outside the corporate limits, to aid in the financing of new water and sewer mains and laterals and sewer outfalls and the replacement or enlargement of existing mains, laterals and outfalls. Such charges shall apply uniformly to all properties to which water or sewer service is extended subsequent to the establishment of such charges; provided, however, that the Council may establish higher acreage charges for property developed or to be developed for business, commercial, industrial, or office and institutional uses than those established for residential and other uses, and may base acreage charges for residential property upon the number of dwelling units per acre of land.

#### "ARTICLE VIII. REGULATORY POWERS

"Sec. 8.1. Land use regulation. The Town of Mebane possesses all of the land use regulation powers conferred on cities and towns generally by the General Statutes of North Carolina.

"Sec. 8.2. Underground utilities. In addition to the powers now or hereafter granted to municipalities by law, the Town subdivision ordinance may require that all utility or other pipes, wiring conduits, cables, and fixtures within subdivisions be installed underground, whether or not the same are installed in public rights-of-way pursuant to plans or regulations approved by the North Carolina Utilities Commission.

#### "ARTICLE IX. CLAIMS AGAINST THE TOWN

"Sec. 9.1. Presentation of claims; suit upon claims. (a) All claims or demands against the Town of Mebane arising in tort or in contract shall be presented to the Town Council 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 Town Council 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 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 renders it impossible for him to give notice, his action shall not be barred if notice of 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. 9.2. Settlement of claims by Town Manager. The Town Manager may, with the approval of the Town Council 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 private 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 Mebane and to consolidate herein certain acts concerning the property, affairs and government of the Town. It is intended to continue without interruption to provide 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 concerning the property, affairs, or government of the public schools in the Town of Mebane.

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

**Sec. 4.** (a) 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>
132	Private Laws 1883
211	Private Laws 1907
97	Private Laws 1921
218	Private Laws 1927
417	Session Laws 1953

**Sec. 5.** No provision of this act is intended, nor shall be construed, to affect in any way any rights of 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 or law repealed by this act.

**Sec. 6.** 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. 7.** (a) All existing ordinances and resolutions of the Town of Mebane, and all existing rules and regulations of departments or agencies of the Town of Mebane, 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 Mebane or any of its departments or agencies shall be abated or otherwise affected by the adoption 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 become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.