

NORTH CAROLINA GENERAL ASSEMBLY  
1963 SESSION

CHAPTER 67  
HOUSE BILL 132

AN ACT TO INCORPORATE THE TOWN OF TOPSAIL BEACH, NORTH  
CAROLINA.

The General Assembly of North Carolina do enact:

CORPORATE POWERS

Section 1. Incorporation and Corporate Powers. The inhabitants of the Town of Topsail Beach in Pender County, North Carolina, within the boundaries as established in Section 3 of this Charter, or as hereafter established in the manner provided by law, shall be a body politic and corporate by name the Town of Topsail Beach, and under that name shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property within or without its boundaries for any municipal purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage and control such property as its interest may require; and, except as prohibited by the Constitution of North Carolina or restricted by this Charter, the Town of Topsail Beach shall have and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The following shall be deemed to be a part of the powers conferred upon the Town of Topsail Beach by this Section:

(a) To levy and collect an annual ad valorem tax on all taxable property at a rate not exceeding fifty cents (\$.50) on the one hundred dollar (\$100.00) valuation of said property notwithstanding the provisions of G. S. 160-402; and to levy and collect special assessments for benefits conferred.

(b) To furnish all local public services; to purchase, hire, construct, own, maintain and operate or lease local public utilities; to acquire, by condemnation or otherwise, within or without the corporate limits, property necessary for such purposes, subject to restrictions imposed by general law for the protection of other communities; and to grant local public utility franchises and regulate the exercise thereof.

(c) To make local public improvements and to acquire, by condemnation, or otherwise, property within or without its corporate limits necessary for such improvements; and also to acquire an excess over that needed for any such improvement, and to sell or lease such excess property with restrictions, in order to protect and preserve the improvement.

(d) To issue and sell bonds on the security of any such excess property, or of any public utility owned by the town, or of the revenue thereof, or of both, including

in the case of a public utility, if deemed desirable by the town, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate such utility.

(e) To adopt and enforce within its limits local police, sanitary and other similar regulations not in conflict with general laws.

Except as otherwise provided in this Act, the board of commissioners shall have authority to determine by whom and in what manner the powers granted by this Section shall be exercised.

Sec. 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 therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the Town of Topsail Beach shall have, and may exercise, all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate. All powers of the town, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed therein, then in the manner provided by ordinance or resolution of the board of commissioners.

Sec. 3. Corporate Limits. The corporate limits of the town shall be as follows:

BEGINNING at a stake in the Atlantic Ocean, said stake being located 309 feet southwardly from where the easternmost corner of the Bland Tract No. 6 of the J. T. Bland Division reaches the water's edge at the Atlantic Ocean; running thence along and with the Ward-Humphrey line North 27 degrees 15 minutes West to the waters of Topsail Sound; thence continuing the same courses North 27 degrees 15 minutes West to the center of the run of the Intracoastal Waterway; thence along and with the center of the run of the Intracoastal Waterway in a southwesterly direction to a point in the intersection of the Intracoastal Waterway and the old Topsail Creek in the vicinity of Beacon 98; thence following the courses of old Topsail Creek in a southeasterly direction as it meanders to New Topsail Inlet and thence with the courses of New Topsail Inlet as it meanders to the Atlantic Ocean; thence with the Atlantic Ocean in a northeasterly direction to the point of BEGINNING.

## BOARD OF COMMISSIONERS

Sec. 4. Creation, Salary and Composition of Mayor and Board of Commissioners. Except as otherwise provided in this Charter all powers of the town shall be vested in a board of commissioners of five members and a mayor nominated and elected from the town at large in the manner hereinafter provided. The term of office of the mayor and the board of commissioners shall be for two years and until their successors are elected and qualified, and shall begin at noon on the day next following their election. If a vacancy occurs in the office of the mayor or commissioner, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the board of commissioners. The mayor and members of the board of commissioners shall be qualified electors of the town. A member of the board of commissioners or the mayor ceasing to possess any of the qualifications specified in this Section, or convicted of crime while in office shall immediately forfeit his office.

Provided, however, that Louis Orr is hereby appointed and named as mayor, and Forrist McCullen, J. A. Godwin, Tom Humphrey, Herbert Williams, and Dewey Justice are hereby appointed and named as commissioners to serve as the first mayor and Board of Commissioners of the Town of Topsail Beach. Their terms of office shall begin upon ratification of this Act and shall terminate at the time their successors are elected and qualified as provided for in this Charter.

Sec. 5. Meetings of the Board of Commissioners. At noon on the day following a regular municipal election the board of commissioners shall assume the duties of office. Thereafter the board of commissioners shall meet at such times as may be prescribed by ordinance or resolution. Special meetings may be called upon the written request of the mayor or two members of the board of commissioners. All meetings of the board of commissioners shall be open to the public, and the rules of the board of commissioners shall provide that citizens of the town shall have a reasonable opportunity to be heard at any such meetings in regard to any matter considered thereat.

Sec. 6. Mayor and Mayor Pro Tem. At its first meeting following a regular municipal election the board of commissioners shall choose one of its members as mayor pro tem. The mayor shall preside at meetings of the board of commissioners and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by the general laws of North Carolina, by this Charter and the ordinances of the town. The mayor shall have the power to veto any ordinance of any nature enacted by the board of commissioners. If the mayor chooses to veto an ordinance, he must make his intention to do so known at the meeting at which such ordinance is enacted, and must, at the next regular or special meeting of the board of commissioners, present for inclusion in the record of proceedings of such meeting a written signed statement setting forth his reasons for exercising the veto. Any ordinance which has been vetoed by the mayor may nevertheless be enacted by the board of commissioners at any regular or special meeting within ninety (90) days of the date of the exercise of the veto by a three-fourths ( $\frac{3}{4}$ ) majority vote. The mayor shall be recognized as the head of the town government for all ceremonial purposes, by the courts for serving civil processes, and by the Governor for purposes of military law. In time of public danger or emergency the mayor shall, if so authorized and directed by vote of the board of commissioners, take command of the police, maintain order and enforce the law. In case of the absence or disability of the mayor, the pro tem shall act as mayor during the continuance of the absence or disability.

Sec. 7. Rules of the Board of Commissioners. The board of commissioners shall be the judge of the election and qualifications of its members and the mayor, and in such cases shall have power to subpoena witnesses and compel the production of all pertinent books, records, and papers; but the decision of the board of commissioners in any such case shall be subject to review by the courts. The board of commissioners shall determine its own rules and order of business and keep a journal of its proceedings.

Sec. 8. Quorum. A majority of the members elected to the board of commissioners shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a

majority of the members elected to the board of commissioners shall be necessary to adopt any ordinance, resolutions, order or vote; except that a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his own official conduct or when his financial interests are involved.

Sec. 9. Introduction and Passage of Ordinances and Resolutions. All ordinances, except ordinances making appropriations and ordinances codifying or rearranging existing ordinances or enacting a code of ordinances, shall be confined to one subject, and the subject, or subjects of all ordinances shall be clearly expressed in the title. Ordinances making appropriations shall be confined to the subject of appropriations. The yeas and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the board of commissioners. Except as otherwise prescribed in this Charter or by general law, all ordinances and resolutions passed by the board of commissioners shall take effect at the time indicated therein. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure.

Sec. 10. Authentication and Publication of Ordinances and Resolutions. Upon its final passage each ordinance or resolution shall be authenticated by the signature of the mayor and the town clerk and shall be recorded in a book kept for that purpose. Within ten days after final passage, a notice setting forth in brief the substance of each ordinance shall be published or posted at least once in such manner as the board of commissioners may prescribe.

## NOMINATIONS AND ELECTIONS

Sec. 11. Municipal Elections. The regular elections for the choice of mayor and members of the board of commissioners shall be held on Tuesday following the first Monday in May in the year 1967 and biennially thereafter. The board of commissioners may by resolution order any special election authorized by law, fix the time for holding the same, and provide all means for holding such special election.

Sec. 12. Regulations of Elections. All elections shall be conducted in accordance with the general State laws relating to municipal elections, except as otherwise provided herein.

Sec. 13. Nominations. Any qualified elector of the Town of Topsail Beach may file as a candidate for mayor or commissioner by formal notice of candidacy in substantially the following form:

"I, \_\_\_\_\_, hereby give notice that I am a candidate for election to the office of \_\_\_\_\_, to be voted on at the election to be held on \_\_\_\_\_, and I hereby request that my name be printed on the official ballot for such office. I also certify that I am a resident and qualified elector of the Town of Topsail Beach, residing at \_\_\_\_\_ in said town.

\_\_\_\_\_  
Candidate

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Date

Witness:

\_\_\_\_\_ ."  
The notice of candidacy prescribed above must be filed with the town clerk not earlier than sixty (60) days nor later than ten (10) days before the date of election. The town clerk shall preserve all such notices until expiration of the term of the office for which the candidate filed. Any candidate may withdraw his notice of candidacy not later than the last day for filing by submitting written notice of withdrawal with the town clerk.

Sec. 14. Election of Mayor and Board of Commissioners. All members of the board of commissioners shall be elected at large. Every qualified voter shall be entitled to vote for one candidate for mayor and for three candidates for the board of commissioners. The three candidates who receive the largest number of votes for commissioner shall be declared elected. The candidate who receives the largest number of votes for mayor shall be declared elected.

#### ADMINISTRATIVE SERVICE

Sec. 15. Appointment of Officers and Employees. The board of commissioners may appoint a town clerk, a treasurer, a tax collector, an accountant, a town attorney, a chief of police, a fire chief, and such other officers and employees as may be necessary, none of whom need be a resident of the town at the time of appointment; provided, that the board of commissioners may appoint one person to fill any two or more such positions. Such employees or officers shall serve at the pleasure of the board of commissioners, and shall perform such duties as may be prescribed by the board of commissioners. The board of commissioners shall fix all salaries, prescribe bonds and require such oaths as they may deem necessary.

Sec. 16. 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. Such institution shall be designated by the board of commissioners in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All interest on moneys belonging to the town shall accrue to the benefit of the town government. All moneys belonging to the town government shall be disbursed only on vouchers signed by the mayor and countersigned by the treasurer or other official designated by the board of commissioners.

Sec. 17. Issuance of Bonds. The town may issue bonds for the purpose and in the manner prescribed by the general laws of North Carolina for the issuance of bonds by municipalities.

Sec. 18. Purchase Procedure. Before making any purchase for supplies, materials or equipment, opportunity shall be given for competition under such rules and regulations, and with such exceptions, as the board of commissioners may prescribe by ordinance. All expenditures for supplies, materials, equipment, involving more than two

thousand dollars (\$2,000.00) shall be made on a written contract, and such contract shall be awarded to the lowest responsible bidder after such public notice and competition as is required by law in North Carolina.

Sec. 19. Contracts for Town Improvements. Any town improvement costing more than thirty-five hundred dollars (\$3500.00) shall be executed by written contract. All such contracts for more than thirty-five hundred dollars (\$3500.00) shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by law in North Carolina, provided the board of commissioners shall have the power to reject all bids and advertise again. Alterations in any contract may be made when authorized by the board of commissioners.

Sec. 20. Independent Audit. As soon as practicable after the close of each fiscal year, an independent audit shall be made of all accounts of the town government by qualified public accountants, selected by the board of commissioners, who have no personal interest directly or indirectly in the financial affairs of the town government or of any of its officers. The results of this audit shall be available to any interested citizens and may be published if so ordered by the board of commissioners.

#### MISCELLANEOUS PROVISIONS

Sec. 21. Publicity of Records. All records and accounts of every office and department of the town shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under reasonable regulations established by the board of commissioners.

Sec. 22. Personal Interest. Neither the mayor nor any member of the board of commissioners nor any officer or employee of the town shall have a financial interest, direct or indirect, in any contract with the town, or be financially interested, directly or indirectly, in the sale to the town of any land, materials, supplies or services, except on behalf of the town as an officer or employee. Any wilful violation of this Section shall constitute malfeasance in office, and any officer or employee of the town found guilty thereof shall thereby forfeit his office or position. Any violation of this Section, with the knowledge express or implied of the person or corporation contracting with the town, shall render the contract void.

Sec. 23. Oath of Office. Every officer of the town shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the town clerk:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of North Carolina, that I will, in all respects, observe the provisions of the Charter and ordinances of the Town of Topsail Beach and will faithfully discharge the duties of the office of \_\_\_\_\_."

Sec. 24. Saving Clause. If any part of this Charter shall be declared invalid by a court of competent jurisdiction, such judgment shall not invalidate the remainder of the Charter. The provisions of this Charter shall supersede all laws and ordinances not consistent herewith, insofar as the Town of Topsail Beach is affected thereby and all laws and clauses of laws in conflict with this Act are repealed.

Sec. 25. 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 March, 1963.