

NORTH CAROLINA GENERAL ASSEMBLY
1965 SESSION

CHAPTER 259
HOUSE BILL 306

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF
LONG BEACH.

The General Assembly of North Carolina do enact:

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

THE CHARTER OF THE TOWN OF LONG BEACH
ARTICLE I. INCORPORATION AND CORPORATE POWERS

Section 1.1. Incorporation and General Powers. The Town of Long Beach shall continue to be a body politic and corporate under the name of the "Town of Long 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.

Section 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.

Section 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 Long Beach 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

Section 2.1. Existing Corporate Boundaries. The corporate boundaries of the Town of Long Beach shall be as follows until changed in accordance with law:

Beginning at a point at the low-water mark of the Atlantic Ocean, said point being where the East line of Middleton Street projected would intersect said low-water

mark according to a map of Yaupon Beach made by H. R. Hewett, surveyor, February 29, 1955, as appears in Map Book 4, Page 40, Office of the Register of Deeds of Brunswick County, North Carolina, said point also being approximately South 72 degrees 15 minutes East 1,340 feet from a stone marked U. S., same being the southwest corner of Fort Caswell property, from said beginning point runs thence in a northwardly direction and along the East line of Middleton Street and the East line of Middleton Street projected approximately 6,400 feet to the center line of the Intra-Coastal Waterway; runs thence in a westwardly direction and with the center line of said Intra-Coastal Waterway approximately 34,335 feet to a point opposite the intersection of Little Davis Creek with the Intra-Coastal Waterway; runs thence South and with the run of Little Davis Creek approximately 2,000 feet to the northern marshes of Big Davis Creek; runs thence westwardly and with the northern marsh line of Big Davis Creek and the northern marsh line of Lockwoods Folly Sound approximately 12,000 feet to Lockwoods Folly Inlet; thence with Lockwoods Folly Inlet to the Atlantic Ocean; thence with the low-water mark of the Atlantic Ocean in an eastwardly direction approximately 45,000 feet to the place and point of beginning, said lands being geographically bounded on the East by the Town of Yaupon Beach, on the South by the low water mark of the Atlantic Ocean, on the West by Lockwoods Folly Inlet, on the North by the northern marsh line of Lockwoods Folly Sound, Big Davis Creek, center of Little Davis Creek, and the center line of the Intra-Coastal Waterway Canal.

Section 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

Section 3.1. Composition of Board of Commissioners. The Board of Commissioners shall consist of six members to be elected by the qualified voters of the town at large in the manner provided by Article IV.

Section 3.2. Terms; Qualifications; Vacancies.

(a) The members of the Board of Commissioners shall serve for terms of four 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 Board of Commissioners, or to serve in such capacity, unless he is a resident and a qualified voter of the town.

(c) If any elected Commissioners shall refuse to qualify, or if there shall be any vacancy in the office of Commissioner after election and qualification, the remaining members of the Board shall by majority vote appoint some qualified person to serve for the unexpired term. Any Commissioner so appointed shall have the same authority and powers as if regularly elected.

Section 3.3. Mayor and Mayor Pro Tempore. The Board of Commissioners, at the organizational meeting following each election, shall elect from among its members a Mayor to serve for a term of two years. The Mayor shall be the official head of the town government and shall preside at all meetings of the Board of Commissioners. The Mayor shall have the same power as other members of the Board

to vote upon all measures coming before it, but shall have no 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 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.

Section 3.4. Compensation of Mayor and Commissioners. The Mayor shall receive for his services such salary as the Board of Commissioners shall determine, and no increase or reduction in his salary shall be made to take effect during the term in which it is voted. The Board of Commissioners may establish a salary for its members which may be increased or reduced, but no increase shall be made to take effect as to any Commissioner during the respective term of office which he is serving at the time the increase is voted.

Section 3.5. Organization of Board; Oaths of Office. The Board of Commissioners shall meet and organize for the transaction of business at a time established by ordinance, following each biennial election and prior to July 1. Before entering upon their offices, 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 defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of Commissioner, on which I am about to enter, according to my best skill and ability; so help me, God."

Section 3.6. Meetings of Board.

(a) The Board of Commissioners shall fix 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 Commissioners, 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.

(b) All meetings of the Board of Commissioners 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.

Section 3.7. Quorum; Votes.

(a) A majority of the members elected to the Board of Commissioners 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.

(b) The affirmative vote of a majority of the members of the Board of Commissioners 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.

Section 3.8. 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 clause of all ordinances shall be: "Be it ordained by the Board of Commissioners of the Town of Long Beach." All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

ARTICLE IV. ELECTION PROCEDURE

Section 4.1. Regular Municipal Elections. The regular municipal elections shall be held on the Tuesday after the first Monday in May of each odd numbered year. In each election year, there shall be elected by the qualified voters of the town voting at large three Commissioners to serve for terms of four years, or until their successors are elected and qualify.

Section 4.2. Voting. Each voter shall be entitled to vote for three candidates for Commissioner. The three candidates who receive the largest numbers of votes for Commissioner shall be declared elected.

Section 4.3. Filing of Candidates. Each qualified person who would offer himself as a candidate for the office of Commissioners shall file with the Town Manager a statement giving notice of his candidacy. Such notice shall be filed not earlier than sixty (60) days nor later than ten (10) days prior to the election at which he offers his candidacy, shall be accompanied by payment of a filing fee of five dollars (\$5.00), and shall be substantially in the following form: "I, _____, do hereby give notice that I am a candidate for election to the office of Commissioner to be voted on at the election to be held on _____, and I hereby request that my name be placed on the official ballot for such office. I also certify that I am a resident and qualified voter of the Town of Long Beach, residing at _____.

(Signature)

(Date)

Witness: _____"

Section 4.4. Regulation of Elections. All municipal elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections, except as otherwise herein provided.

Section 4.5. Present Terms Not Affected. Notwithstanding any provision of this Article, E. F. Middleton, W. W. Vennel, and E. M. Underwood, Jr., shall continue in office as Commissioners until the terms for which they were appointed shall expire.

Section 4.6. New Registration in 1965. A new registration of all qualified voters shall be conducted for the 1965 municipal election in Long Beach. Such new registration shall be conducted in accordance with the general laws governing new registrations for regular municipal elections; provided, however, that the notice of such new registration required by G. S. 160-35 shall not be applicable, and it shall be sufficient if notice of such registration is published or posted at the same time as notice is given of the election, as required by G. S. 160-32.

ARTICLE V. TOWN MANAGER

Section 5.1. Appointment; Compensation. The Board of Commissioners shall appoint an officer whose title shall be Town Manager and who shall be the chief executive officer of the town and the head of the administrative branch of the town government. The Town Manager shall be chosen by the Board solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. At the time of his appointment he need not be a resident of the town, but shall reside therein during his tenure of office. No person elected as a member of the Board of Commissioners shall be eligible for appointment as Town Manager until one year shall have elapsed following the expiration of the term for which he was elected. The Town Manager shall serve at the pleasure of the Board of Commissioners and shall receive such salary as the Board shall fix. In case of absence or disability of the Manager, the Board may designate a qualified administrative officer of the town to perform the duties of the Manager during such absence or disability.

Section 5.2. Chief Administrator. The Town Manager shall be responsible to the Board of Commissioners for the proper administration of all the affairs of the town. As chief administrator, the Town Manager shall have the power to appoint and remove all officers, department heads, and employees in the administrative service of the town, except the Town Attorney, who shall be appointed as provided elsewhere in this Charter. Neither the Mayor nor the Board of Commissioners nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the Town Manager, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the town. Except for the purpose of inquiry, the Mayor and the Board of Commissioners and its members shall deal with officers and employees in the administrative service only through the Town Manager, and neither the Mayor nor the Board of Commissioners nor any of its members shall give orders or directions to any subordinate of the Town Manager, either publicly or privately.

Section 5.3. Duties of Town Manager. It shall be the duty of the Town Manager to supervise the administration of the affairs of the town; to see that the ordinances, resolutions, and regulations of the Board of Commissioners and the laws of the State are faithfully executed and enforced; to make such recommendations to the Board of Commissioners concerning the affairs of the town as he shall deem expedient; to keep the Board of Commissioners advised of the financial condition and the future financial needs of the town; to attend all meetings of the Board of Commissioners and to prepare and submit to the Board such reports as he may deem expedient or as may be required of him by the Board; and to perform all other duties as may be required of him by the Board of Commissioners.

ARTICLE VI. TOWN ATTORNEY

Section 6.1. 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 of Commissioners and shall receive such compensation as the Board shall determine.

Section 6.2. 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; to attend all meetings of the Board of Commissioners; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

ARTICLE VII. ADMINISTRATIVE OFFICERS AND EMPLOYEES

Section 7.1. 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 Manager may direct.

Section 7.2. Town Tax Collector. The Town Manager may appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the town, subject to the provisions of this Charter and the ordinances of 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.

Section 7.3. Town Accountant. The Town Manager may appoint a Town Accountant to perform the duties of the Accountant as required by the Municipal Fiscal Control Act.

Section 7.4. Consolidation of Functions. The Town Manager may, in his discretion, consolidate any two or more of the offices of Town Clerk, Town Tax Collector, and Town Accountant, or may assign the functions of any one or more of these offices to the holder or holders of any other of these offices. The Town Manager may also, in his discretion, 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 VIII. FINANCE

Section 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. 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 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 Municipal Fiscal Control Act.

Section 8.2. Issuance of Bonds. The town 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.

Section 8.3. Purchases and Contracts. Purchases of apparatus, supplies, material and equipment, and contracts for constructions or repair work shall be made in accordance with the General Statutes of North Carolina relating thereto.

Section 8.4. 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 town government by a certified public accountant or a qualified public accountant registered under Chapter 93 of the General Statutes of North Carolina, who shall have no personal interest directly or indirectly in the affairs of the town or of any of its officers. The Board of Commissioners shall select the public accountant, and the results of such audit shall be made available for inspection by any interested citizen of the town, and may be published if so ordered by the Board of Commissioners.

ARTICLE IX. CLAIMS AGAINST THE TOWN

Section 9.1. Title to Properties Used for Certain Purposes. In the absence of any contracts with the town in relation to the lands used or occupied by it for the purposes of streets, sidewalks, alleys, or other public works of the town signed by the owner thereof or his agent, it shall be conclusively presumed that said land has been granted to the town by the owner or owners, and the town shall have good right and title thereto and shall have, hold, and enjoy the same. Unless the owner or owners of said land, or those claiming under them, shall make claim or demand in writing addressed to the Board of Commissioners within two (2) years following the date when such land was taken, he or they shall be forever barred from recovering such land or having any compensation therefor; provided, nothing herein shall affect the rights of persons under disabilities until two (2) years following removal thereof.

Section 9.2. Tort Claims. All claims or demands against the town arising in tort shall be presented to the Board of Commissioners in writing, signed by the claimant or his attorney or agent, with 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 ten (10) 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. 2. The purpose of this Act is to revise the Charter of the Town of Long Beach and to consolidate into it certain Acts concerning the property, affairs, and government of the town. It is intended to continue in force 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, or amendments thereto:

- (a) Session Laws, 1961, Chapter 345;
- (b) Session Laws, 1961, Chapter 411.

Sec. 4. The following Acts, having served the purposes for which enacted, or having been consolidated into this Act, are hereby repealed:

- (a) Session Laws, 1955, Chapter 1067;
- (b) Session Laws, 1957, Chapter 438;
- (c) Session Laws, 1959, Chapter 499;
- (d) Session Laws, 1959, Chapter 903.

Sec. 5. (a) All existing ordinances and resolutions of the Town of Long Beach, and all existing rules or regulations of departments or agencies of the Town of Long 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 Long Beach or any of its departments or agencies shall be abated or otherwise affected by the adoption of this Act.

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 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. 7. All ordinances, resolutions, actions, and proceedings of the Board of Commissioners of the Town of Long Beach heretofore adopted, had and taken are hereby in all respects legalized, ratified, approved, validated, and confirmed.

Sec. 8. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict.

Sec. 9. 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 15th day of April, 1965.