

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1248

Short Title: Carthage Charter Consolidation.

(Local)

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Sponsors: Senators Lee and Kinnaird.

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Referred to: State Government, Local Government and Personnel.

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May 21, 1998

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF  
CARTHAGE.

The General Assembly of North Carolina enacts:

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

**"THE CHARTER OF THE TOWN OF CARTHAGE.**

**"ARTICLE I. INCORPORATION, CORPORATE POWERS AND  
BOUNDARIES.**

"Section 1.1. **Incorporation.** The Town of Carthage, North Carolina, in Moore  
County and the inhabitants thereof shall continue to be a municipal body politic and  
corporate, under the name of the 'Town of Carthage,' hereinafter at times referred to as  
the 'Town.'

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers,  
duties, rights, privileges and immunities conferred upon the Town of Carthage  
specifically by this Charter or upon municipal corporations by general law. The term  
'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the  
time of ratification of this Charter, as set forth on the official map of the Town and as  
they may be altered from time to time in accordance with law. An official map of the

1 Town, showing the current municipal boundaries, shall be maintained permanently in the  
2 office of the Town Clerk and shall be available for public inspection. Upon alteration of  
3 the corporate limits pursuant to law, the appropriate changes to the official map shall be  
4 made and copies shall be filed in the office of the Secretary of State, the Moore County  
5 Register of Deeds, and the appropriate board of elections.

## 6 "ARTICLE II. GOVERNING BODY.

7 "Section 2.1. **Town Governing Body; Composition.** The Town council, hereinafter  
8 referred to as the 'Council', and the Mayor shall be the governing body of the Town.

9 "Section 2.2. **Town Council; Composition; Terms of Office.** The Council shall be  
10 composed of five members, to be elected by all the qualified voters of the Town, for  
11 staggered terms of four years or until their successors are elected and qualified.

12 "Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the  
13 qualified voters of the Town for a term of four years or until his or her successor is  
14 elected and qualified. The Mayor shall be the official head of the Town government and  
15 preside at meetings of the Council, shall have the right to vote only when there is an  
16 equal division on any question or matter before the Council, and shall exercise the  
17 powers and duties conferred by law or as directed by the Council.

18 "Section 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as  
19 Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or  
20 disability, in accordance with general law. The Mayor Pro Tempore shall serve in such  
21 capacity at the pleasure of the Council.

22 "Section 2.5. **Meetings.** In accordance with general law, the Council shall establish a  
23 suitable time and place for its regular meetings. Special and emergency meetings may be  
24 held as provided by general law.

25 "Section 2.6. **Quorum; Voting.** Official actions of the Council and all votes shall be  
26 taken in accordance with the applicable provisions of general law, particularly G.S.  
27 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

28 "Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The  
29 compensation and qualifications of the Mayor and Council members shall be in  
30 accordance with general law. Vacancies that occur in any elective office of the Town  
31 shall be filled by majority vote of the remaining members of the Council and shall be  
32 filled for the remainder of the unexpired term, despite the contrary provisions of G.S.  
33 160A-63.

## 34 "ARTICLE III. ELECTIONS.

35 "Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be  
36 held in each odd-numbered year in accordance with the uniform municipal election laws  
37 of North Carolina. Elections shall be conducted on a nonpartisan basis and the results  
38 determined using the nonpartisan plurality method as provided in G.S. 163-292.

39 "Section 3.2. **Election of Mayor.** A Mayor shall be elected in the regular municipal  
40 election in 1999 and each four years thereafter.

41 "Section 3.3. **Election of Council Members.** In the regular municipal election in  
42 1997, the three candidates for Council member who receive the highest number of votes  
43 shall be elected for four-year terms, while the two candidates who receive the next

1 highest number of votes shall be elected for two-year terms. In the regular municipal  
2 election in 1999, and in each regular municipal election thereafter, persons shall be  
3 elected to serve four-year terms in those positions whose terms are then expiring.

4 "Section 3.4. **Special Elections and Referenda.** Special elections and referenda may  
5 be held only as provided by general law or applicable local acts of the General Assembly.

#### 6 **"ARTICLE IV. TOWN MANAGER.**

7 "Section 4.1. **Form of Government.** The Town shall operate under the council-  
8 manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of  
9 the General Statutes.

10 "Section 4.2. **Town Manager; Appointment; Powers and Duties.** The Council  
11 shall appoint a Town Manager who shall be responsible for the administration of all  
12 departments of the Town government. The Town Manager shall have all the powers and  
13 duties conferred by general law, except as expressly limited by the provisions of this  
14 Charter, and the additional powers and duties conferred by the Council, so far as  
15 authorized by general law.

16 "Section 4.3. **Settlement of Claims by Town Manager.** The Council may authorize  
17 the Town Manager to settle claims against the Town for (i) personal injuries or  
18 damages to property when the amount involved does not exceed the sum of two thousand  
19 five hundred dollars (\$2,500) and does not exceed the actual loss sustained, including  
20 loss of time, medical expenses, and any other expenses actually incurred; and (ii) the  
21 taking of small portions of private property which are needed for the rounding of corners  
22 at intersections of streets, when the amount involved in any such settlement does not  
23 exceed two thousand five hundred dollars (\$2,500) and does not exceed the actual loss  
24 sustained. Settlement of a claim by the Town Manager pursuant to this section shall  
25 constitute a complete release of the Town from any and all damages sustained by the  
26 person involved in such settlement in any manner arising out of the incident, occasion, or  
27 taking complained of. All such settlements and all such releases shall be approved in  
28 advance by the Town Attorney.

#### 29 **"ARTICLE V. ADMINISTRATIVE OFFICERS AND EMPLOYEES.**

30 "Section 5.1. **Town Attorney.** The Council shall appoint a Town Attorney licensed  
31 to practice law in North Carolina. It shall be the duty of the Town Attorney to represent  
32 the Town, advise Town officials and perform other duties required by law or as the  
33 Council may direct.

34 "Section 5.2. **Town Clerk.** The Town Manager shall appoint a Town Clerk to keep a  
35 journal of the proceedings of the Council, to maintain official records and documents, to  
36 give notice of meetings, and to perform such other duties required by law or as the  
37 Manager may direct. The Manager may appoint an Assistant or Deputy Town Clerk.

38 "Section 5.3. **Tax Collector.** The Town shall have a Tax Collector to collect all  
39 taxes owed to the Town and perform those duties specified in G.S. 105-350 and such  
40 other duties as prescribed by law or assigned by the Town Manager. Notwithstanding the  
41 contrary provisions of G.S. 105-349, the Manager may appoint and remove the Tax  
42 Collector and one or more Deputy Tax Collectors.

1 "Section 5.4. **Other Administrative Officers and Employees.** The Council may  
2 authorize other positions to be filled by appointment by the Town Manager, and may  
3 organize the Town government as deemed appropriate, subject to the requirements of  
4 general law.

5 "Section 5.5. **Manager's Authority; Role of Elected Officials.** As chief  
6 administrator, the Town Manager shall have the power to appoint, suspend, and remove  
7 all nonelected officers, department heads and employees of the Town, except the Town  
8 Attorney, who shall be appointed as provided in Section 5.1 of this Charter. Neither the  
9 Mayor nor the Council nor any of its committees or members shall take part in the  
10 appointment or removal of officers, department heads and employees in the  
11 administrative service of the Town, except as provided by this Charter. Except for the  
12 purpose of inquiry, or for consultation with the Town Attorney, the Mayor and the  
13 Council and its members shall deal with officers and employees in the administrative  
14 service only through the Manager, Acting Manager or Interim Manager, and neither the  
15 Mayor nor the Council nor any of its members shall give orders or directions to any  
16 subordinate of the Manager, Acting Manager or Interim Manager, either publicly or  
17 privately.

#### 18 **"ARTICLE VI. STREET IMPROVEMENTS.**

19 "Section 6.1. **Assessments for Street Improvements; Petition Unnecessary.** In  
20 addition to any authority granted by general law, the Council may, without the necessity  
21 of a petition, order street improvements and assess the costs thereof against abutting  
22 property, exclusive of the costs incurred at street intersections, according to one or more  
23 of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes,  
24 upon the following findings of fact:

- 25 (1) The street improvement project does not exceed 3,000 linear feet; and  
26 (2) a. The street or part thereof is unsafe for vehicular traffic or creates a  
27 safety or health hazard, and it is in the public interest to make such  
28 improvement;  
29 b. It is in the public interest to connect two streets, or portions of a  
30 street already improved; or  
31 c. It is in the public interest to widen a street, or part thereof, which  
32 is already improved; provided, that assessments for widening any  
33 street or portion of a street without a petition shall be limited to  
34 the cost of widening and otherwise improving such street in  
35 accordance with street classification and improvement standards  
36 established by the Town's thoroughfare or major street plan for  
37 the particular street or part thereof.

38 "Section 6.2. **Street Improvement Defined.** For the purposes of this Article, the  
39 term 'street improvement' shall include excavation, grading, regrading, surfacing,  
40 resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the  
41 construction or reconstruction of curbs, gutters and street drainage facilities; including  
42 legal and engineering fees, charges and costs.

1 "Section 6.3. **Procedure; Effect of Assessment.** In ordering street improvements  
2 without a petition and assessing the costs thereof under authority of this Article, the  
3 Council shall comply with the procedures provided by Article 10 of Chapter 160A of the  
4 General Statutes, except those provisions relating to petitions of property owners and the  
5 sufficiency thereof. The effect of the act of levying assessments under authority of this  
6 Article shall be the same as if the assessments were levied under authority of Article 10  
7 of Chapter 160A of the General Statutes.

#### 8 "ARTICLE VII. SIDEWALKS.

9 "Section 7.1. **Assessments for Sidewalk Improvements; Petition Unnecessary.** In  
10 addition to any authority granted by general law, the Council may, without the necessity  
11 of a petition, order sidewalk improvements or repairs according to standards and  
12 specifications of the Town, and assess the total costs thereof against abutting property,  
13 according to one or more of the assessment bases set forth in Article 10 of Chapter 160A  
14 of the General Statutes; provided, however, that regardless of the assessment basis or  
15 bases employed, the Council may order the costs of sidewalk improvements made only  
16 on one side of a street to be assessed against property abutting both sides of such street.  
17 In ordering sidewalk improvements or repairs without a petition and assessing the costs  
18 thereof under authority of this Article, the Council shall comply with the procedures  
19 provided by Article 10 of Chapter 160A of the General Statutes, except those provisions  
20 relating to petitions of property owners and the sufficiency thereof. The effect of levying  
21 assessments under authority of this Article shall be the same as if the assessments were  
22 levied under authority of Article 10 of Chapter 160A of the General Statutes.

23 "Section 7.2. **Property Owner's Responsibility; Costs Become Lien.** It shall be the  
24 duty of every property owner in the Town to keep the sidewalks abutting his or her  
25 property clean and free of debris, trash and other obstacles or impediments. The Council  
26 may by ordinance establish a procedure whereby Town forces may clean any sidewalk or  
27 remove therefrom any debris or trash after failure of the abutting property owner after 10  
28 days' notice to do so. In such event, the cost of such cleaning or removal shall become a  
29 lien upon the abutting property equal to the lien for ad valorem taxes and may thereafter  
30 be collected either by suit in the name of the town or by foreclosure of the lien in the  
31 same manner and subject to the same rules, regulations, costs and penalties as provided  
32 by law for the foreclosure of the lien on real estate for ad valorem taxes.

#### 33 "ARTICLE VIII. REMOVAL OF MOTOR VEHICLES.

34 "Section 8.1. **Liens for Removal of Motor Vehicles.** The Council may establish  
35 charges to be made for the cost of removing abandoned, junked or nuisance motor  
36 vehicles from private property. When the town causes the removal of any such vehicle  
37 from private property pursuant to an ordinance permitting such removal, and the owner or  
38 other person having control of said property fails to pay the cost of the removal within 30  
39 days after it becomes due, the amount of the cost of removal of the vehicle shall become  
40 a lien against the real property from which the vehicle was removed; said cost shall be  
41 placed upon the town's tax books against the property and may be collected and  
42 foreclosed in the same manner as taxes are collected and foreclosed, or by suit, as the  
43 town may determine.

**"ARTICLE IX. EXTRATERRITORIAL POWERS.**

"Section 9.1. **Extraterritorial Jurisdiction.** The Town shall have and may exercise all of the powers granted by Article 19 of Chapter 160A of the General Statutes within an extraterritorial area which it shall define. Despite the contrary provisions of G.S. 160A-360, the Town may, with the approval of the board of county commissioners, extend its extraterritorial area up to two miles outside the corporate limits.

**"ARTICLE X. MINIMUM HOUSING/ABANDONED BUILDINGS.**

"Section 10.1. **Buildings Vacated and Closed for One Year.** The Town may exercise the authority contained in G.S. 160A-443(5a)."

Section 2. The purpose of this act is to revise the Charter of the Town of Carthage and to consolidate 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 expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs or government of public schools, or any acts validating official actions, proceedings, contracts or obligations of any kind.

Section 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 85, Private Laws of 1796

Chapter 28, Private Laws of 1803

Chapter 113, Private Laws of 1812

Chapter 74, Private Laws of 1818, except for Section 1

Chapter 89, Private Laws of 1827-28

Chapter 30, Private Laws of 1832-33

Chapter 207, Private Laws of 1847

Chapter 124, Private Laws of 1871-72

Chapter 176, Private Laws of 1874-75

Chapter 32, Private Laws of 1881

Chapter 248, Private Laws of 1901

Chapter 299, Private Laws of 1903

Chapter 482, Private Laws of 1907, except for Sections 50 through 64

Chapter 166, Private Laws of 1909

Chapter 209, Private Laws of 1913

Chapter 33, Private Laws of 1924 (Extra Session)

Chapter 203, Private Laws of 1925

Chapter 862, Session Laws of 1945

Chapter 962, Session Laws of 1965.

Section 5. The Mayor and Council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified. Thereafter those offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

1           Section 6. This act does not affect any rights or interests which arose under  
2 any provisions repealed by this act.

3           Section 7. All existing ordinances, resolutions and other provisions of the  
4 Town of Carthage not inconsistent with the provisions of this act shall continue in effect  
5 until repealed or amended.

6           Section 8. No action or proceeding pending on the effective date of this act by  
7 or against the Town or any of its departments or agencies shall be abated or otherwise  
8 affected by this act.

9           Section 9. If any provision of this act or application thereof is held invalid,  
10 such invalidity shall not affect other provisions or applications of this act which can be  
11 given effect without the invalid provision or application, and to this end the provisions of  
12 this act are declared to be severable.

13           Section 10. Whenever a reference is made in this act to a particular provision  
14 of the General Statutes, and such provision is later amended, superseded or recodified,  
15 the reference shall be deemed amended to refer to the amended General Statute, or to the  
16 General Statute which most clearly corresponds to the statutory provision which is  
17 superseded or recodified.

18           Section 11. This act is effective when it becomes law.