

NORTH CAROLINA GENERAL ASSEMBLY
1965 SESSION

CHAPTER 760
HOUSE BILL 816

AN ACT TO INCORPORATE THE TOWN OF ALLIANCE IN PAMLICO
COUNTY.

The General Assembly of North Carolina do enact:

Section 1. The community of Alliance, Pamlico County, within the boundaries hereinafter established, is hereby incorporated under the name of the Town of Alliance and is created a body politic and corporate. The town shall hereafter possess all the corporate powers and be subject to all the provisions contained in Chapter 160 of the General Statutes of North Carolina.

Sec. 2. Corporation Limits. The corporate limits and boundaries of the Town of Alliance in Pamlico County shall embrace the following described territory, to wit: Situate, lying and being in No. 1 and No. 3 Townships, Pamlico County and more particularly described as follows, to wit:

BEGINNING at a point in the center line or thread of the stream known and designated as the South Prong of Bay River, which said point may be established by extending through the thread of the river the East line of the property of J. G. Dees; running thence with the East property line of J. G. Dees (extended) in a northerly direction to the North bank of the South Prong of Bay River, at J. G. Dees' corner in a ditch; thence along and with the East property line of J. G. Dees in a northerly direction, and continuing along a line which is the common East property line of the Annie Gibbs and the West line of the property of James Bowks to a point where said line intersects the northern line of the Norfolk and Southern Railroad right of way; thence along and with the northern line of the right of way of the Norfolk and Southern Railroad in a westerly direction 6390 feet to the intersection of the right of way of the Norfolk and Southern Railroad with the center line of the Tyndall Canal; thence along and with the center line of the Tyndall Canal in a northerly direction 8350 feet to the intersection of the center line of the Tyndall Canal with a ditch which constitutes the southeastern property line of the Mary H. Riddick property; thence westerly 3660 feet to the center line of a ditch (which is in the property line between lands of the S. M. Campen estate, and the said Mary H. Riddick property and property owned by Ralph Brooks); thence in a southerly direction 369 feet to a ditch (which constitutes the South property line of the S. M. Campen estate lands); thence along and with the ditch and the southern property line of the S. M. Campen estate lands in a westerly direction 1635 feet to a stake located at the intersection of the center line of the ditch with the West line of the right of way of the Riggs Road; thence along and with the West line of the Riggs Road in a southerly

direction 1002 feet, more or less, to the intersection of the West line of Riggs Road with a ditch (which said ditch line constitutes the dividing line between the property of the Joe West heirs and the lands of Ralph Brooks); thence along and with said ditch in a westerly direction 580 feet, more or less, to a corner of the Joe West heirs' and Ralph Brooks' property; thence across the Ralph Brooks property in a westerly direction 1211 feet to the western right of way line of the New Ditch Canal Road; thence along and with the western line of said New Ditch Canal Road in a southeasterly direction, 528 feet to the Sandhills Canal; thence along and with said Sandhills Canal in a westerly direction to its intersection with a ditch constituting the common East property line of lands owned by Hallet Mayo and the western property line of lands owned by J. A. Mayo; thence along and with said ditch and common property line (extended) 1584 feet in a southerly direction to the center line of N. C. Highway 55; thence along and with the center line of said highway in a southwesterly direction 1056 feet to the intersection of the center line of said highway with a stake at the western right of way line (if extended) of a farm road belonging to the Sylvester Keel estate; thence from said point of intersection in a straight line to the intersection of the center line or thread of the waters of the South Prong of Day River with the waters of Pot Branch; thence along and with the center line and thread of the South Prong of Buy River as it meanders in a generally easterly direction to the place and point of BEGINNING.

Sec. 3. The initial officers of the municipality shall consist of a mayor and four (4) commissioners, to wit: Mayor, James A. Tingle; Commissioners, Lister D. Rice, Cecil Carmody, Ben F. McCotter, and Earle Ireland. Each is appointed for a term of two (2) years and until their successors, as provided by law, have been duly elected and have qualified. The mayor and commissioners will constitute the governing body of said municipality.

Sec. 4. The Town of Alliance, within the boundaries as established in Section 2 of this Act, shall be a body politic and corporate, and under that name: shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property within or without said boundary for any municipal purpose, in fee simple or lesser 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 limited by the Constitution of North Carolina, may exercise all municipal powers, functions, rights, privileges and immunities of every kind and nature whatsoever. The following express powers, not by way of limitation on any implied or express additional powers conferred by other law, shall be part of the powers conferred upon the Town of Alliance and the governing board of the town:

(1) To levy, assess and collect taxes and to borrow money within the limits prescribed by general law; and to levy and collect special assessments on property for benefits conferred.

(2) To furnish all local public services; to purchase, hire, construct, own, maintain and operate or lease as lessor or lessee local public utilities; to acquire by condemnation or otherwise, within or without the corporate limits, property necessary for any such purposes, subject to restrictions imposed by general law for the protection

of other communities; Provided, however, that the property of persons, firms and corporations which have the power of eminent domain and the property of electric membership corporations may not be condemned.

(3) 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 such property in excess of that needed for any such improvements, and to sell or lease such excess property with appropriate restrictions, in order to protect and preserve the improvement.

(4) To issue and sell bonds on the security of any such property or 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.

(5) The Board of Commissioners of the Town of Alliance is hereby authorized and empowered to exercise any and all powers of planning and zoning, which are hereby conferred upon the town and vested in its governing body by this Charter, and conferred under the General Statutes of North Carolina, including the provisions of Article 14, Chapter 160 and Sections 160-226 through 160-227.1, or by any other statute applicable to the town, for the area beyond and surrounding its corporate limits, and within all of that territory which may be embraced within any recorded map of "Alliance", or which may be recorded in the Map Book in the office of the Register of Deeds of Pamlico County, to the same extent and according to the same methods of procedure as may be applicable to planning and zoning within the corporate limits.

(6) 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 governing board of the town shall have authority to determine by whom and in what manner any and all of its powers shall be exercised.

Sec. 5. Enumerated Powers Not Exclusive. The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive. In addition to the powers enumerated herein, or reasonably implied, or appropriate to the exercise of such enumerated powers, it is intended that the town shall have and may exercise all additional lawful powers of municipalities under the Constitution and laws of North Carolina which this Charter may or may not specifically enumerate. All powers of the town, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed herein, then in the manner provided by ordinance or resolution of the governing board.

Sec. 6. Creation and Composition of Town Governing Board; Mayor and Board of Commissioners. Except as otherwise provided in this Charter, all powers of the town shall be vested in a governing board of four Commissioners and a mayor, nominated and elected as town commissioners from the town at large in the manner hereinafter provided. The regular term of office of the members of the governing board

shall be for two years and until their successors are elected and have qualified. The terms of office of the initial governing board appointed in Section 3 of this Act shall be as therein stated. If a vacancy occurs in the office of mayor or commissioner, it shall be filled by appointment or election by the town governing board for the unexpired term. Each member of the governing board, including the mayor, shall receive such salary as may be provided by town ordinance. The members of the governing board shall be qualified electors of the town. Any member of the governing board who shall cease to possess any of the qualifications for office as specified in this Act, or who shall be convicted of any crime involving moral turpitude while in office, shall immediately forfeit his office.

Sec. 7. Meetings of Governing Board. The organizational meeting of the initial governing board appointed in Section 3 of this Act, shall be held as soon, and thereafter when required, as may be practicable. Thereafter, the first meeting of the elected governing board of the town shall be held on the first Saturday in July. The board shall meet at such other times as may be prescribed by ordinance, but not less frequently than once every three (3) months. Special meetings may be called by the mayor or two (2) town commissioners upon giving prior written notice of such meeting by mail or in person, of not less than two (2) days. The notice shall state the time, place, and purpose of such meeting. On the first Saturday in July, 1967, and biennially thereafter, the members of the town governing board elected at the preceding regular municipal election shall qualify, meet, and assume their duties. All town board meetings shall be open to the public, and any citizen of the town shall be afforded a reasonable opportunity to be heard in regard to any matter considered, under such rules as the board or presiding officer may prescribe.

Sec. 8. Mayor and Mayor Pro Tem. At its organizational meeting on the first Saturday in July, 1967, and biennially thereafter following a regular municipal election, the board of commissioners shall elect the town commissioner with the largest vote at said election, as chairman, who shall act as mayor, and another of its members its vice chairman, who shall act as mayor pro tempore. The mayor shall preside at meetings of the governing board, 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 by the ordinances of the town. He shall be recognized as the head of the town government, for all ceremonial purposes, by the courts for the service of all legal process in civil matters, and by the Governor for the purposes of civil defense and military law. In time of public danger or emergency the mayor shall, if so authorized and directed by the town governing board, take and exercise command of the town police, maintain order, and enforce the law. In case of the absence or other disability of the mayor to act, the mayor pro tempore shall act as mayor during the continuance of the absence or other disability.

Sec. 9. Board of Commissioners Rules. The board of commissioners shall be the judge of the election and qualifications of its mayor and other members, and in such capacity shall have the power to subpoena witnesses and to compel the production of all books, records, and papers, and to exercise within the limitations of general law, the

contempt powers of a court. The decision of the board of commissioners in any such case shall be subject to judicial review as provided by law. The board of commissioners shall determine its own rules and order of business, and shall keep a journal of its proceedings.

Sec. 10. Quorum. A majority of the members elected to the board of commissioners shall constitute a quorum to do business, but a lesser number may adjourn any meeting from time to time, and may 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 ordinances, resolutions, order or vote. The mayor or mayor pro tempore, when presiding, may vote, but may elect to abstain from voting except to break a tie.

Sec. 11. Introduction and Passage of Ordinances and Resolutions. Ordinances and resolutions shall be introduced by a member of the town board only and in written or printed form. 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 town board.

Sec. 12. Effective Date of Ordinances, Resolutions. All ordinances, including ordinances making: the annual tax levy, appropriations, or pertaining to local improvements and assessments, or pertaining to emergency measures, shall take effect at the time indicated therein except as otherwise required by the North Carolina General Statutes.

Sec. 13. Authentication of Ordinances and Resolutions. Upon its final passage each ordinance or resolution shall be authenticated by the signature of the mayor, or mayor pro tempore, and the town clerk, or of any acting town clerk by direction of the board, and shall be recorded permanently in a book kept for that purpose.

Sec. 14. Municipal Elections. The regular election of members of the board of commissioners shall be held on the last Saturday in June in the odd-numbered years, beginning with the last Saturday in June, 1967, and biennially thereafter. The board of commissioners may, for any other lawful purpose, and by resolution, order a special election, fix the time for holding the same, and provide all other details and means for holding such special election.

Sec. 15. Regulations of Elections. All elections shall be conducted in accordance with the general laws relating to municipal elections, except as otherwise provided herein.

Sec. 16. Nominations. Any qualified elector of the Town of Alliance may be a candidate for the board of commissioners by filing notice in writing of his candidacy for such office with the town clerk not later than June 15th immediately preceding the regular municipal election, and by paying a filing fee of five dollars (\$5.00).

Sec. 17. Registration of Voters. All otherwise qualified electors in order to be eligible to vote in the municipal election must be registered to vote in the Town of Alliance. Registration books shall be open for the registration of voters on the two Saturdays in June immediately preceding the last Saturday, the date of the election.

Nonresident freeholders, subject to limitations of the Constitution of North Carolina from time to time, shall be eligible to vote providing they may be or become registered electors in the Town of Alliance, and tenants by the entirety or in common of a freehold in real property shall, if otherwise qualified, be entitled to register and vote.

Sec. 18. Notice of Election. Not later than May 15, 1967, and biennially thereafter, the board of commissioners shall cause notice of the regular municipal election to be posted in five (5) public places in the Town of Alliance and cause the same notice to be sent by United States mail to each nonresident freeholder at his last known address. Such notice shall state:

- (1) The date and any polling places for the municipal election;
- (2) The names and addresses of any registrars and judges of election;
- (3) The date and time for the opening and closing of the registration books;
- (4) The requirement that otherwise constitutionally qualified nonresident freeholders, and otherwise qualified electors must register in order to vote;
- (5) Qualified electors are eligible to be candidates for members of the town board of commissioners; and that
- (6) Candidates for office must file notice of candidacy for such office in writing with the town clerk not later than June 15th immediately preceding the election and that such notice must be accompanied by a filing fee of five dollars (\$5.00).

Sec. 19. Election of Board of Commissioners. All qualified electors shall be entitled to vote for as many candidates as there are members to be elected to the board of commissioners. The five candidates who receive the largest number of votes shall be declared elected and there shall be no primary or run-off election. Immediately upon the determination of the results of the election by the town governing body, it shall declare the election results in writing and cause the declaration to be posted in five (5) public places in the Town of Alliance.

Sec. 20. Appointment of Officers and Employees. The town board may employ or 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. The board may employ or appoint persons to discharge the duties of two more of such positions. Such employees or appointees shall serve at the pleasure of the town board and shall perform such duties as may by said board be prescribed. The town board shall fix all salaries, prescribe or waive bonds, and require or waive such oaths as they may deem necessary, subject to paramount provisions of general law.

Sec. 21. Issuance of Bonds. The town may issue bonds for the purpose and in the manner prescribed by the general laws of the State of North Carolina for the issuance of bonds by municipalities.

Sec. 22. Purchase Procedure. Before making any purchases 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. All expenditures for supplies, materials, or equipment, involving more than

one thousand dollars (\$1,000.00) 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 may be prescribed by the board of commissioners.

Sec. 23. 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 result of this audit shall be published immediately.

Sec. 24. Custody of Town Money. All money received by any department or agency of 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 town board 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 money belonging to the town shall accrue to the benefit of the town government. All money belonging to the town government shall be disbursed only on vouchers signed by the mayor and countersigned by the other officer, employee, or appointee, designated by the board.

Sec. 25. 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.

Sec. 26. Personal Interest. Neither the mayor nor any members of the board, nor any appointee, 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, upon final conviction of any criminal offense in connection therewith, shall, in addition to other actions of law, suffer removal from his employment, office or position with the town. Any violation of this Section, with the knowledge, express or implied, of the person or corporation contracting with the town shall render the contract voidable, at its election, by the board of commissioners.

Sec. 27. Oath of Office. Every officer of the town shall at the direction of the town board, and before entering upon the duties of his office, take and subscribe to the following oath or affirmation, in addition to all other oaths which may be required by law, to be filed and kept in the official records of the town:

"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, and that I will, in all respects, observe the provisions of the Charter and ordinances of the Town of Alliance and will faithfully discharge the duties of the office of"

Sec. 28. 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 Alliance may be affected thereby.

Sec. 29. 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 1st day of June, 1965.