

**Acts of the North Carolina General Assembly, 1745**  
**North Carolina. General Assembly**  
**April 08, 1745 - April 20, 1745**  
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CHAPTER X.

An Act for the better regulating the Town of Wilmington and for confirming and establishing the late Survey of the same, with the Plan annexed.

I. Whereas the Inhabitants and the greatest Part of the Proprietors of the Town of Wilmington have been at a very considerable Expence in a Re Survey and forming of an exact Plan of the said Town; and being unanimous in petitioning for the same to be established by a Law:

II. Be it Enacted, by His Excellency Gabriel Johnston, Esq., Governor, by and with the Advice and Consent of his Majesty's Council, and General Assembly of this Province and by the Authority of the same, That the said Plan as annexed, shall be, forever, hereafter the true and exact Plan of the said Town; by a Reference to which all Disputes in Regard to Streets, Squares, Lots and Their Boundaries are to be determined for the future.

III. But whereas by the unskillfulness of former Surveyors and Neglect of the Proprietors, the Course of the Streets and Bounds of Squares and Lots were never properly ascertained by which many Houses are misplaced, some encroaching upon the Streets and others upon the Lots of their Neighbours; For Remedy whereof, Be it Enacted, by the Authority aforesaid, That all such Houses as are now built either wholly, or in Part, upon the streets shall be allowed to remain so until they decay and fall to ruin; but as soon as the Owner of such House or Houses may resolve to repair or rebuild the same the Street or Streets shall be by him cleared of all Rubbish and he be obliged to build such house or Houses upon his or their Lot or Lots, under the Penalty of Fifty Pounds, Proclamation Money, to be recovered and applied as is hereinafter directed: And where any Owner or Proprietor has the Whole or any Part of his House or Houses on his Neighbor's Lot or Ground, in such Case it shall and may be lawful for the Party so injured, by being deprived of Part of his Lot or Ground by his Neighbour's House, or any Part of it being Built upon his, to give Notice in Writing, to the Owner or Proprietor of such House or Houses to remove what part of the same is on such Person's Lot or Ground in Six Months after Date; which he shall be obliged to do under Penalty of Fifty Pounds, Proclamation Money; to be recovered in the Supreme Court of this Province, by the Party so injured, and to be applied to his proper Use and to no other Purpose whatsoever: Nevertheless, the Owner or Proprietor of a House or Houses having Brick Chimneys, or Brick Cellars, may be at Liberty, and he is hereby allowed, to pay a Ground Rent for what Part he encroaches upon his Neighbour, where Notice or Warning was not before given of such Incroachment; which Rent and all Disputes arising about Incroachments and Damages upon Lots already committed, shall be determined by the Commissioners of the said Town, to be chosen as hereinafter directed.

IV. And be it further Enacted, by the Authority aforesaid, That every Complaint of Nusances, by Lumber or Rubbish Lying upon the Streets, or Wharfs, Dangers of Fire, arising from Wooden Chimneys, or any such hazardous Buildings, shall be determined by the Commissioners as aforesaid.

V. And that proper Care may be taken in the Choice of Commissioners. Be it Enacted by the Authority aforesaid, That the Election of Commissioners shall be, Yearly, and every Year, by the Freeholders of the said Town by Ballot, as directed in the Law for Regulating the Elections of Members of Assembly, and that the Number of Five and no more, shall be chosen Commissioners Annually, every New Year's Day, except when such Day falls upon Sunday, in which Case the Election to be on the Monday following;

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and two Persons to be chosen by the Majority of the Inhabitants as Inspectors of the Ballot shall attend and declare who are duly elected Commissioners, in the same Manner as in the Law for Regulating Elections of Assembly: And that upon the said Five Commissioners being chosen, and their Names properly entered in the Journal of the Proceedings of the Town, they shall, before they enter upon their Office take the following Oath:

I, A. B. do forever swear, That I will execute the Office of Commissioner, faithfully and truly, without Favour or Affection or Prejudice; and in all Things Act for the Good of the said Town, and the well governing of it, to the best of my skill and Judgment. So help me God.

VI. And that the said Town of Wilmington may be more regularly supplied with Provisions, Be it Enacted, by the Authority aforesaid, That Thursdays and Saturdays in every Week are hereby appointed Market Days for all kinds of Provisions and Goods whatsoever; and the Commissioners of the said Town, for the Time being, are hereby empowered to pass such Orders as they may judge proper, for the better regulating the said Markets, for preventing tainted or unwholesome Provisions being sold, for the better bringing to Justice, or prosecuting according to Law in the Civil courts of this Province, all Forstallers of the Market, private Marketing or buying or dealing with Negroes bringing Provisions or other Goods without proper Tickets from their Masters, Mistresses or Overseers, for preventing all irregular Mobbs and Cabals by Negroes and others, especially on Sundays, for the more effectually bringing to Justice all such Criminals and Offenders against the Laws of this Province, and also for preserving the Peace and Safety of the said Town, and also for preserving the Peace and Safety of the said Town, by appointing proper Guards or Watches in the said Town, as often as they see proper, so as one of the Commissioners shall always be of the Number to make up the said Watch, by giving his attendance in the Town-house, to be ready on all Occasions of Riots and Disturbances, or to prevent Malefactors breaking the Prison or Gaol, and in all Things to act for the Good and Safety of the said Town, and the proper Government of it, consistent with the Laws and Customs of this Province.

VII. And forasmuch as the Inhabitants of the said Town were at a considerable Expence in building a Town-house, or Court-house, in the said Town by a voluntary Contribution; Be it Enacted, by the Authority aforesaid, That the Commissioners and the Inhabitants, shall have free Liberty to hold all their Public Meetings on all Occasions in the Court-house and have the Liberty of a Key to the same.

VIII. And whereas many Streets in the said town are impassable and dangerous, for want of proper Bridges and Water-Courses, and proper Shambles or a Market-place is also wanted in the said Town; Be it Enacted by the Authority aforesaid, That the Commissioners, or the Majority of them, for the Time being, may, and they are hereby empowered to lay a Tax on all Male Taxables in the said Town, Yearly, towards defraying the necessary Charges, or any which may arise by holding Watches, building or repairing Public Wharfs, or Bridges, or other Public Charges, which may be agreed upon at the Yearly Public Election by the Majority of the Inhabitants of the said Town, so as such Yearly Tax does not exceed One Shilling and Six Pence, Proclamation Money.

IX. And be it further Enacted, by the Authority aforesaid, That any Person being chosen Commissioner for the said Town and refusing to act, the other Commissioners, or the Majority of them, shall choose another in his Room.

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X. And be it Enacted, by the Authority aforesaid, That all Fines and Forfeitures, mentioned in this Act, unapplied, shall be levied and applied to the Public Fund or Stock of the said Town.

XI. And be it further Enacted, by the Authority aforesaid, That the Commissioners are hereby empowered to issue their Warrant, at least Twice a Year to the Constables, to warn all the Male Taxables to clear and repair the Streets, or make or mend the Public Wharfs, Docks, or Slips, and also to appoint Overseers; and any Person neglecting or refusing to work as directed in the Warrant, or to furnish a good and sufficient Hand in their Place, shall forfeit and pay Two Shillings and Eight Pence, Proclamation Money, per Day, for every such Refusal or Neglect; to be recovered in the same Manner as the Commissioners of the Roads are empowered by Law: Which Money so recovered, shall be applied towards hiring Labourers in their Place and Stead, and to no other Purposes whatsoever.

XII. And be it further Enacted, by the Authority aforesaid, That the Inhabitants of the said town, shall, and they are hereby, forever hereafter, excused from all work on the Country Public Roads during such time as they live in the said Town, and no longer.

XIII. And whereas many Lots are not yet cleared, nor proper Drains or Runs made, in many Places in the Parts of Town where there are most Inhabitants, to the Manifest Injury and Unhealthiness of the said Town, Be it therefore Enacted, by the Authority aforesaid, That the Commissioners for the Time being, or the Majority of them, may and they are hereby empowered to Order the Proprietors of any Lot or Lots to clear all, or any Part of them, and to make proper Drains or Water-Courses through them, in Six Months after such Order, signed by the Commissioners for the

Time being, or the Majority of them; and any Person refusing or neglecting to comply with the same, shall forfeit and pay Twenty Shillings, Proclamation Money.

XIV. And whereas all Dangers arising from Fire in the said Town are very great and a Necessity appears for Providing a Water-Engine, Buckets, Ladders and other Instruments, necessary on such Occasion; Be it Enacted by the Authority aforesaid, That every House in the said Town shall be valued, after the Expiration of Two Years next after the Ratification of this Act, by the Commissioners, who are hereby empowered to lay a Tax on the Owner or Proprietor of such House or Houses, at so much per cent. so as such Tax does not exceed Two per Cent., Proclamation Money; which Money so laid and collected shall be applied towards purchasing one or more Water-Engines, Buckets, Ladders and other Instruments for extinguishing Fire; as also for an Alarm or Town Bell: Which Instruments shall be under the Care and Direction of the Commissioners for the Time being, to be ready on all Occasions of Fire.

XV. And to supply the want of Commissioners at present, Be it Enacted, by the Authority aforesaid, That the Inhabitants of the said Town be and are hereby empowered and authorized to meet, on the Second Tuesday in May next and choose Five Commissioners to act 'till New Year's Day next, and no longer.

XVI. And be it further Enacted, by the Authority aforesaid, That if at any Time, Twenty Days after the Ratification of this Act any Tavern-keeper, Ordinary-keeper, or any other Person or Persons whatsoever, selling Liquor or keeping a Public House in the said Town shall suffer any Person or Persons whatsoever to sit tippling or drinking in his House in Time of Divine Service on the Sabbath Day; or shall suffer any Person or Persons to get drunk in his House on the Sabbath Day; such Person or Persons so offending shall forfeit

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and pay for every such Offence the Sum of Twenty Shillings, Proclamation Money.

XVII. And be it further Enacted, by the Authority aforesaid, That if any Person or Persons whosoever in the said Town, shall one Month after the Ratification of this Act, on any Pretence whatsoever, give any Credit, Loan, or Trust, to any Mariner or Seaman, belonging to or under the Command of any Master of a Vessel that now is, or shall at any Time hereafter, arrive in the River of Cape Fear, exceeding the Sum of Two Shillings and Eight Pence, Proclamation Money, except by the leave or Licence of the Master or Commander of the Vessel he belongs to, or where such Sailor or Mariner shall have left the Ship or Vessel to apply to the Courts of Justice in any Dispute or Controversy with the Captain or Commander of such Ship or Vessel; that then and in such Case, he, she, or they, shall for every such Default, lose all the Monies and Goods so trusted or credited.

XVIII. And be it further Enacted, by the Authority aforesaid, That if any person or Persons whosoever, shall willingly and knowingly, entertain, harbour or keep, or suffer to be entertained, harboured, or kept directly or indirectly, any Seaman belonging to any Vessel as aforesaid in his, her, or their House or Houses, exceeding the Space of Six hours, without the Privy or Consent of his, or their Commander, (except as in the Case before excepted), he, she, or they, so offending shall forfeit and pay the Sum of Forty Shillings, Proclamation Money, for every such Offence.

XIX. And be it further Enacted, by the Authority aforesaid, That if any Person or Persons shall think him or themselves injured, by any Determination of the said Commissioners, such Person or Persons may appeal to the Justices of the County Court; who are hereby empowered to determine the same in a Summary way.

XX. And be it further Enacted, by the Authority aforesaid, That all Fines and Forfeitures mentioned in this Act, not exceeding Five Pounds, Proclamation Money, shall be recovered by a Warrant, under the Hands and Seals of the Commissioners, or a Majority of them for the Time being, directed to the Constable or Bailiff of the said Town, to be by him levied on the Goods and Chattels of the Delinquent and Public Sale to be made of so much of the same, after Ten Days Notice first given of such Sale, as will discharge the said Sum or Sums and the Overplus, if any, to be returned to the Owner; and that all other Fines and Forfeitures mentioned in this Act, for any Sum above Five Pounds, Proclamation Money, shall be recovered by the Commissioners, or the major Part of them, or the Survivors of them, in any Court of Record of this Province, by Action of Debt, Bill, Complaint, or Information, wherein no Essoign, Injunction, or Wager of Law, shall be allowed or admitted of; and that the Fines and Forfeitures by them so recovered and not hereinbefore particularly appropriated, shall be applied and paid into the Stock of the said Town.

XXI. And be it further Enacted, by the Authority aforesaid, That if any of the Commissioners chosen by virtue of this Act shall die, or leave the Province, it shall and may be lawful for the Inhabitants to meet and choose as before

directed, a Commissioner or Commissioners, in Place of him or them so dying or leaving the Province; and such Commissioner or Commissioners so chosen and elected, shall possess and enjoy the same Power and Authority as any other of the Commissioners, chosen as before directed; anything in this Act to the contrary, notwithstanding.