

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 959
HOUSE BILL 1305

1 AN ACT TO INCORPORATE THE TOWN OF COOLEEMEE IN DAVIE COUNTY
2 SUBJECT TO AN ELECTION.

3
4 The General Assembly of North Carolina do enact:
5

6 **Section 1.** (a) The Board of Elections of Davie County is hereby authorized to call
7 and conduct a special election on such date as it shall determine for the purpose of submitting
8 to the qualified voters of the area hereinafter described as the proposed corporate limits of the
9 Town of Cooleemee the question whether or not such area shall be incorporated as a municipal
10 corporation known as the Town of Cooleemee, and to elect the members of the governing body
11 if said area is incorporated. On the election day, the polls shall be open from 6:30 a.m. until
12 6:30 p.m. The Board of Elections for Davie County in conducting the election required to be
13 held herein shall follow the procedure as outlined in this Act and the General Statutes of North
14 Carolina relating to municipal elections where not in conflict with this Act.

15 (b) A new registration of all qualified voters in the described area shall be
16 conducted for the purpose of registering the names of those who desire to vote in such special
17 election. The registration book for such new registration shall be open for thirty (30) days prior
18 to the election and shall remain open on each day from 9:00 a.m. until 5:00 p.m. On the second,
19 third and fourth Saturdays preceding the election, the books shall be kept at the polling place.
20 On other days during the registration period, it may be kept at the home or place of business of
21 the registrar, or at the polling place, as designated in the notice hereinafter required. The
22 Saturday before the election shall be Challenge Day.

23 (c) The Board of Elections of Davie County shall, not later than thirty (30) days
24 before the election, appoint a registrar and two judges of election and designate a polling place
25 for the special election.

26 (d) Not later than thirty (30) days before the election, the Board of Elections of
27 Davie County shall cause to be posted at the Cooleemee Post Office, and at such other public
28 places as the Board may choose, a notice stating the time, the polling place, and the purpose of
29 the special election; the names of the registrar and judges of election; the dates, hours, and
30 place or places of registration; the date, time, and place for challenges; that the registration is a
31 complete new registration for the special election; and that candidates for election to the Town
32 Board of Commissioners must file with the Board notice of candidacy not earlier than forty-
33 five (45) days and not later than thirty (30) days before the election. The Board of Elections
34 may, in its discretion, also cause such notice to be published one or more times in a newspaper
35 having general circulation in the Cooleemee community.

36 (e) Any qualified voter who would offer himself as a candidate for Commissioner in
37 such election shall file with the Chairman or Clerk of the Board of Elections of Davie County a
38 written statement giving notice of his candidacy. Such notice shall be filed not earlier than
39 forty-five (45) days and not later than thirty (30) days before the election, and shall be
40 substantially in the following form: "I, _____, do hereby give notice that I am
41 a candidate for election to the office of Commissioner, Town of Cooleemee, to be voted on at
42 the election to be held on call of Board of Elections of Davie County, and I hereby request that

my name be placed on the official ballot for such office. I certify that I am a resident and qualified voter of the Town of Cooleemee, residing at _____.

_____(Date)_____ (Signature)_____

Witness:_____."

(f) In the special election, those voters who favor the incorporation of the Town of Cooleemee as provided in this Act shall vote a ballot upon which shall be printed the words: "FOR Incorporation of Town of Cooleemee", and those voters who are opposed to the incorporation of the Town of Cooleemee as provided in this Act shall vote a ballot upon which shall be printed the words "AGAINST Incorporation of Town of Cooleemee".

(g) Also in the special election, each qualified registered voter shall be entitled to vote for five (5) candidates for Commissioner upon a ballot on which shall be listed, in alphabetical order, the names of all persons who filed notice of candidacy with the Board of Elections during the period hereinabove established.

Sec. 2. If a majority of the votes cast in such special election shall be cast "AGAINST Incorporation of Town of Cooleemee", then Sections 4 through 13 of this Act shall have no force and effect.

Sec. 3. If a majority of the votes cast in such special election shall be cast "FOR Incorporation of Town of Cooleemee", then Sections 10 through 13 of this Act shall be in full force and effect from and after date of the election.

Sec. 4. (a) In the special election, the three (3) candidates for Commissioner who receive the largest numbers of votes cast for Commissioner shall be declared elected for terms of four (4) years or until their successors are elected and qualified, and the two (2) candidates for Commissioner who receive the next largest numbers of votes cast for Commissioner shall be declared elected for terms of two (2) years or until their successors are elected and qualified. In case of a tie between opposing candidates, the Board of Elections shall determine the result by lot.

(b) The Chairman of the Board of Elections shall notify the persons elected as Commissioners, and shall designate some qualified officer to administer to them the oath of office, which shall be done as soon as practicable following their election.

Sec. 5. The following provisions of law shall constitute the Charter of the Town of Cooleemee in Davie County:

"THE CHARTER OF THE TOWN OF COOLEEMEE

"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Section 1.1. Incorporation and General Powers. The inhabitants of the area described in Section 2.1 of this Charter shall be and constitute a body politic and corporate under the name of the 'Town of Cooleemee', and shall be vested with all property which may be acquired by the Town, and all rights herein delegated to it; 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

1 Town of Cooleemee shall have and may exercise all powers which are granted to municipal
2 corporations by the general laws of North Carolina and all powers which, under the
3 Constitution of North Carolina, it would be competent for this Charter specifically to
4 enumerate.

5 "ARTICLE II. CORPORATE BOUNDARIES

6 "Section 2.1. Corporate Boundaries. (a) Beginning at River Bridge, Highway 801 to
7 Rowan County, follow South Yadkin River upstream to "Cowpasture Branch" just beyond
8 River Dam. Follow Branch to point adjacent to Church Street Extension, then to a point
9 northwest end of Hickory Street, then to include all property adjoining Hickory Street to
10 intersection of Hickory Street and State Road No. 1128 and all property adjoining State Road
11 No. 1128 to Highway 801; then all property adjoining Highway 801 to intersection at Midway
12 Street to Center Street; then go southwest on centerline of Center Street to point approximately
13 200 feet from Midway Street. At this point, all adjoining property on Center Street to Holt
14 Street. Include all property adjoining Holt Street, north on line to River Bridge at Beginning
15 point.

16 "(b) As soon as practicable following their election, the Board of Commissioners of the
17 Town of Cooleemee shall cause to be made an accurate survey of the corporate boundaries and
18 shall cause to be made an accurate map based upon such survey. After such survey and map is
19 completed, and after the Board of Commissioners of the Town of Cooleemee finds and declares
20 upon its minutes that the boundaries shown on such map do not vary from the description in
21 subsection (a) of this Section, they shall cause accurate copies of such map to be filed in the
22 office of the register of deeds of Davie County and in the office of the Secretary of State of
23 North Carolina. From and after the time a copy of such map is filed in the office of the register
24 of deeds of Davie County, the corporate boundaries as shown thereon shall be the corporate
25 boundaries of the Town of Cooleemee until changed in accordance with law. An accurate copy
26 of such map shall also be maintained in the Town offices.

27 "ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

28 "Section 3.1. Mayor and Mayor Pro Tempore. The Board of Commissioners shall
29 choose one of its number to be the Mayor of the Town of Cooleemee. The Mayor shall be the
30 official head of the Town government and shall preside at all meetings of the Board of
31 Commissioners. When there is an equal division upon any question, or in the appointment of
32 officers, by the Board, the Mayor shall determine the matter by his vote, and shall vote in no
33 other case. The Mayor shall exercise such powers and perform such duties as are or may be
34 conferred upon him by the general laws of North Carolina, by this Charter, and by the
35 ordinances of the Town. The Board of Commissioners shall also choose one of its number to
36 act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence
37 or disability. The Mayor and Mayor Pro Tempore as such shall have no fixed term of office,
38 but shall serve in such capacity at the pleasure of the Board of Commissioners.

39 "Section 3.2. Composition of Board of Commissioners. The Board of Commissioners
40 shall consist of five (5) members to be elected by and from the qualified voters of the Town
41 voting at large in the manner provided by Article IV.

42 "Section 3.3. Terms; Qualifications; Vacancies. (a) Except for the initial terms of office
43 hereinbefore specified, the Mayor and the members of the Board of Commissioners shall serve
44 for terms of four (4) years, beginning the day and hour of the organizational meeting following
45 their election, as established by ordinance in accordance with this Charter; provided, they shall
46 serve until their successors are elected and qualify.

47 "(b) No person shall be eligible to be a candidate or be elected as a member of the Board
48 of Commissioners, or to serve in such capacity, unless he is a resident and a qualified voter of
49 the Town.

50 "(c) If any elected Commissioner shall refuse to qualify, or if there shall be any vacancy
51 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 3.4. Compensation of Mayor and Commissioners. The Mayor and other members of the Board of Commissioners shall receive for their services such salary as the Board of Commissioners shall determine. After the initial salaries have been established, such salaries may be increased or decreased as the Board of Commissioners sees fit, but no increase or decrease shall be made to take effect during the respective term of office which he is serving at the time the increase or decrease 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 ayes and noes 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 Cooleemee.' All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein, or unless some provision of the General Statutes provides otherwise.

"ARTICLE IV. ELECTION PROCEDURE

"Section 4.1. Regular Municipal Elections. Following the initial election hereinbefore provided for, regular municipal elections shall be held on the Tuesday after the first Monday in May of each odd-numbered year, beginning in 1971. In the regular 1971 election and quadrennially thereafter, there shall be elected by the qualified voters of the Town voting at large two (2) Commissioners to serve for a term of four (4) years, or until their successors are elected and qualify. In the regular 1973 election and quadrennially thereafter, there shall be elected by the qualified voters of the Town voting at large three (3) Commissioners to serve for terms of four (4) years, or until their successors are elected and qualify.

"**Section 4.2. Voting.** In the regular 1971 election and quadrennially thereafter, each voter shall be entitled to vote for two (2) candidates for Commissioner, and the two (2) candidates for Commissioner who receive the largest numbers of votes cast for Commissioner shall be declared elected. In the 1973 election and quadrennially thereafter, each voter shall be entitled to vote for three (3) candidates for Commissioner, and the three (3) candidates who receive the largest numbers of votes cast for Commissioner shall be declared elected. In case of a tie between opposing candidates, the election officials shall determine the result by lot.

"**Section 4.3. Marking of Ballots.** In all regular municipal elections, each voter shall cast his vote for as many candidates as there are offices to be filled, and where an elector marks a ballot for any number of candidates less than the number of offices to be filled, such ballot shall not be counted for any of the candidates. There shall be printed on all ballots for Commissioner the number of candidates to be voted for.

"**Section 4.4. Filing of Candidates.** Each qualified person who would offer himself as a candidate for the office of Commissioner shall file with the Town Clerk a statement giving notice of his candidacy. Such notice shall be filed not earlier than the eighth Friday nor later than five o'clock p.m. on the third Friday 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, Town of Cooleemee, 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 certify that I am a resident and qualified voter of the Town of Cooleemee, residing at _____.

_____(Date)_____ (Signature)_____

_____(Witness)_____.

"**Section 4.5. Regulation of Elections.** All municipal elections shall be conducted in accordance with the provisions of the General Statutes of North Carolina, except as otherwise herein provided.

"ARTICLE V. TOWN ATTORNEY

"**Section 5.1. 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 5.2. 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, 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 VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

"**Section 6.1. Town Clerk.** The Board of Commissioners shall appoint a Town Clerk to keep a journal of the proceedings of the Board 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 Board may direct.

"**Section 6.2. Town Tax Collector.** The Board of Commissioners 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.

1 **"Section 6.3. Town Accountant.** The Board of Commissioners may appoint a Town
2 Accountant to perform the duties of the Accountant as required by the Municipal Fiscal Control
3 Act.

4 **"Section 6.4. Consolidation of Functions.** The Board of Commissioners may, in its
5 discretion, consolidate the functions of any two or more of the positions of Town Clerk, Town
6 Tax Collector, and Town Accountant, or may assign the functions of any one or more of these
7 positions to the holder or holders of any other of these positions. The Board may also, in its
8 discretion, designate a single employee to perform all or any part of the functions of any of the
9 named positions, in lieu of appointing several persons to perform the same.

10 **"Section 6.5. Other Employees.** The Board of Commissioners may create and fill by
11 appointment such other positions as it deems advisable to insure the efficient administration of
12 the affairs of the Town, and may, in its discretion, appoint a person to supervise all Town
13 departments, and may delegate to such person the power of appointment and removal of
14 department heads and employees, other than the Town Attorney.

15 **"ARTICLE VII. FINANCE**

16 **"Section 7.1. Custody of Town Money.** All moneys received by the Town for or in
17 connection with the business of the Town government shall be paid promptly into the Town
18 depository. Such institution shall be designated by the Board of Commissioners in accordance
19 with such regulations and subject to such requirements as to security for deposits and interest
20 thereon as may be established by the General Statutes of North Carolina. All interest on
21 moneys belonging to the Town shall accrue to the benefit of the Town. All moneys belonging
22 to the Town shall be disbursed only in accordance with the provisions of the Municipal Fiscal
23 Control Act.

24 **"Section 7.2. Issuance of Bonds.** The Town may issue bonds for the purposes and in the
25 manner prescribed by the General Statutes of North Carolina relating to the issuance of bonds
26 by municipalities.

27 **"Section 7.3. Purchases and Contracts.** Purchases of apparatus, supplies, materials, and
28 equipment, and contracts for construction or repair work, shall be made in accordance with the
29 General Statutes of North Carolina relating thereto.

30 **"Section 7.4. Independent Audit.** As soon as practicable after the close of each fiscal
31 year, an independent audit shall be made of all books and accounts of the Town government by
32 a certified public accountant or a qualified public accountant registered under Chapter 93 of the
33 General Statutes of North Carolina, who shall have no personal interest directly or indirectly in
34 the affairs of the Town or of any of its officers. The Board of Commissioners shall select the
35 public accountant, and the results of such audit shall be made available for inspection by any
36 interested citizen of the Town, and may be published if so ordered by the Board of
37 Commissioners.

38 **"Section 7.5. Taxation.** The territory within the corporate limits, and its citizens and
39 property, shall be subject to municipal taxes levied by the Town for the fiscal year 1969-70 and
40 subsequent years. The Town may obtain from Davie County, and the County Tax Supervisor
41 shall provide upon request, a record of property within the corporate limits which was listed for
42 taxation as of January 1, 1969.

43 **"ARTICLE VIII. CLAIMS AGAINST THE TOWN**

44 **"Section 8.1. Title to Properties Used for Certain Purposes.** In the absence of any
45 contracts with the Town in relation to the lands used or occupied by it for the purposes of
46 streets, sidewalks, alleys, or other public works of the Town signed by the owner thereof or his
47 agent, it shall be conclusively presumed that said land has been granted to the Town by the
48 owner or owners, and the Town shall have good right and title thereto and shall have, hold, and
49 enjoy the same. Unless the owner or owners of said land, or those claiming under them, shall
50 make claim or demand in writing addressed to the Board of Commissioners within two (2)
51 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 8.2. 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, within 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 thirty (30) 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.

"ARTICLE IX. GENERAL PROVISIONS

"Section 9.1. Health and Well-Being of Citizens. The Board of Commissioners of the Town shall have the power and the right to adopt such rules and regulations for the effective policing of the Town as they may deem necessary, and to take all necessary steps for the proper enforcement of the same; and the Board of Commissioners shall have the right and the power to adopt such rules and regulations for the preservation and protection of the health and well-being of the Town and its citizens as they may deem necessary, and to take all necessary steps for the proper enforcement of the same.

"Section 9.2. North Carolina General Statutes. The Town shall have the benefit of and be subject to all the provisions of Chapter 160 of the General Statutes of North Carolina and all laws amendatory thereof, and shall have the benefit of and be subject to all the provisions of all general laws regulating towns and cities, except in so far as said Chapter 160 and the aforesaid laws are modified and changed by the provisions of this Town Charter."

Sec. 6. If any provisions 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 provision or applications of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable.

Sec. 7. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Sec. 8. Subject to the provisions of Sections 1 through 3 hereof, 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 23rd day of June, 1969.