

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 265
HOUSE BILL 701

AN ACT TO INCORPORATE THE TOWN OF PINE KNOLL SHORES IN
CARTERET COUNTY SUBJECT TO AN ELECTION.

The General Assembly of North Carolina enacts:

Section 1. (a) The Board of Elections in Carteret County is hereby authorized to call and conduct a special election on such date as it shall determine for the purpose of submitting to the qualified voters for the area hereinafter described as the proposed corporate limits of the Town of Pine Knoll Shores, the question whether or not such area shall be incorporated as a municipal corporation known as the Town of Pine Knoll Shores, and to elect the members of the governing body if said area is incorporated. On the election day, the polls shall be open from 6:30 A.M. until 6:30 P.M. The Board of Elections for Carteret County in conducting the election required to be held herein shall follow the procedure as outlined in this act and the General Statutes of North Carolina relating to municipal elections where not in conflict with this act.

(b) A new registration of all qualified voters in the described area shall be conducted for the purpose of registering the names of those who desire to vote in such special election. The registration book for such new registration shall be open for thirty (30) days prior to the election and shall remain open each day from 9:00 A.M. until 5:00 P.M. and shall be kept at the office of Pine Knoll Shores on Yaupon Road. The Saturday before the election shall be Challenge Day.

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

(d) Not later than thirty (30) days before the election, the Board of Elections of Carteret County shall cause to be posted at the Pine Knoll Shores office on Yaupon Road, and at such other public places as the Board may choose, a notice stating the time, the polling place, and the purpose of the special election; the names of the registrar and judges of election; the dates, hours, and place or places of registration; the date, time and place for challenges; that the registration is a complete new registration for the special election; and that candidates for the election to the Town Board of Commissioners must file with the Board notice of candidacy not earlier than forty-five (45) days and not later than thirty (30) days before the election. The Board of Elections may, in its discretion, also cause such notice to be published one or more times in a newspaper having general circulation in the Pine Knoll Shores Community.

(e) Any qualified voter who would offer himself or herself as a candidate for Commissioner in such election shall file with the Chairman or Clerk of the Board of

Elections of Carteret County a statement giving written notice of his candidacy. Such notice shall be filed not earlier than forty-five (45) days and not later than thirty (30) days before the election 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 Pine Knoll Shores, to be voted on at the election to be held on call of the Board of Elections, Carteret 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 Pine Knoll Shores, residing at _____.

(Date) (Signature)

(f) In the special election, a ballot shall be used upon which shall be printed the words "FOR Incorporation of the Town of Pine Knoll Shores" and the words "AGAINST Incorporation of the Town of Pine Knoll Shores". Those voters who favor the incorporation of the Town of Pine Knoll Shores shall vote "FOR Incorporation of the Town of Pine Knoll Shores". Those voters who are opposed to the incorporation of the Town of Pine Knoll Shores shall vote "AGAINST Incorporation of the Town of Pine Knoll Shores".

(g) Also in this special election, each qualified registered voter shall be entitled to vote for six (6) 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 hereinbefore established.

Sec. 2. If a majority of the votes cast in such special election shall be cast "AGAINST Incorporation of the Town of Pine Knoll Shores", then "the Charter of the Town of Pine Knoll Shores" 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 the Town of Pine Knoll Shores", then "the Charter of the Town of Pine Knoll Shores" of this act shall be in full force and effect from and after the date of the election.

Sec. 4. (a) In the special election, the six (6) candidates for Commissioner who receive the largest number of votes cast for Commissioner shall be declared elected to serve until the regular municipal election to be held in 1975, 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 practical following their election.

(c) Those elected as Commissioners shall at their first meeting appoint one of the Commissioners as Mayor to serve until the election in 1975.

Sec. 5. The following provisions of law shall constitute the Charter of the Town of Pine Knoll Shores in Carteret County.

"THE CHARTER OF THE TOWN OF PINE KNOLL SHORES
"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Sec. 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 Pine Knoll Shores", 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 to, dedicated to, 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.

"Sec. 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.

"Sec. 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 Pine Knoll Shores 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

"Sec. 2.1. Corporate Boundaries. The corporate boundaries of the Town of Pine Knoll Shores, until changed in accordance with law are as follows:

On Bogue Banks, in Morehead Township, and beginning at a point on the northern margin of the Salter Path Road; which point is 70 feet North of the presently existing center line of said Road and located 40 feet North of the Silver Sands Estates' southwest corner on said Road (Map Book 6, page 13, Carteret County Registry); said beginning point being also the southeast corner of the Bogue Enterprises Ltd. (Golf Course) properties, as conveyed by deed dated 1 February, 1969, from Cornelius Van Schaak Roosevelt, et als, as recorded in Book 308, page 334, Carteret County Registry; running thence South 5°-20' West and across the said Salter Path Road 100 feet to a point in the southern margin of the Salter Path Road right-of-way; runs thence with the southern margin of the Salter Path Road right-of-way South 87°-15' East to a point in said right-of-way at the northeast corner of Lot #1 on the map showing 'Beach Front Area West of Morehead Beach Fishing Pier', as recorded in Map Book 4, page 96, Carteret County Registry, said point being also the northwest corner of the Morehead Ocean Pier Inc. property; runs thence with the eastern lot line of said Lot #1, South 4°-45' West approximately 500 feet to the ordinary high-water mark of the Atlantic Ocean; thence continuing the same course, South 4° -45' West and into the waters of the Atlantic Ocean 2500 feet; thence westwardly and at a distance of 2500 feet, measured perpendicularly from the ordinary high-water mark of the Atlantic Ocean, to a point at which said line intersects the prolongation of the eastern line of the Episcopal Church

property as deeded by Mrs. Alice Hoffman, said deed recorded in Book 123, page 259, Carteret County Registry; runs thence northwardly and with the Episcopal Church property east line to the ordinary high-water mark of Bogue Sound; thence continuing the same course, and with the prolongation of the Episcopal Church property east line 2500 feet to a point in Bogue Sound; runs thence eastwardly and at a distance of 2500 feet, measured perpendicularly from the ordinary high-water mark of Bogue Sound, to a point at which said line intersects the prolongation of the eastern property line of the Bogue Enterprises Ltd. (Golf Course) property; and running thence and with the Bogue Enterprises Ltd. (Golf Course) property east line South 5°20' West approximately 4,480 feet to the point of beginning.

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

"Sec. 3.1. Mayor and Mayor Pro Tempore. The Mayor shall be elected by the Board of Commissioners from its own members, and he shall hold office for two (2) years except as otherwise provided herein. In case of a vacancy in the office of Mayor, the remaining members of the Board of Commissioners shall choose from their own number his successor for the unexpired term. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. When there is an equal division upon any question, or in the appointment of officers, by the Board, the Mayor shall determine the matter by his vote, and shall vote in no other case. 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.

"Sec. 3.2. Composition of Board of Commissioners. The Board of Commissioners shall consist of six (6) members to be elected by and from the qualified voters of the Town voting at large in the manner provided by Article IV.

"Sec. 3.3. Terms; Qualifications; Vacancies. (a) Except as otherwise provided herein, the members of the Board of Commissioners shall serve for terms of four (4) 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 Commissioner 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.

"Sec. 3.4. Compensation of Mayor and Commissioner. The Town Board of Commissioners may fix its own compensation and allowances, and the compensation

and allowances of the Mayor, in such sums as may be just and reasonable, effective following the next regular municipal election for seats on the Town Board of Commissioners. The compensation and allowances of the Mayor shall not be reduced during the then current term of office. Any action taken under this section shall be published at least once in some newspaper having general circulation in Pine Knoll Shores, as provided by North Carolina General Statute 1-597, and shall not be taken after 14 days before the deadline for filing notice of candidacy for the Board of Commissioners.

"Sec. 3.5. Organization of Board; Oaths of Office. The Board of Commissioners shall meet, elect the Mayor and organize for the transaction of business at the first regularly scheduled meeting of the Board following each biennial election. Before entering upon their offices, the Mayor and 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 and laws of North Carolina not inconsistent therewith and that I will faithfully perform the duties of the office of _____, on which I am about to enter, according to my best skill and ability; so help me, God.'

"Sec. 3.6. Meetings of Board. (a) The Board of Commissioners shall fix by ordinance suitable times for its regular meetings. 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.

"Sec. 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. The number required for a quorum shall not be affected by vacancies.

(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 of the members present and voting.

"Sec. 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 Pine Knoll Shores'. 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

"Sec. 4.1. Regular Municipal Elections. Regular municipal elections shall be held on the Tuesday after the first Monday in November of each odd-numbered year, beginning in 1975. In the regular election in 1975, there shall be elected six (6) Commissioners. The three (3) candidates receiving the highest numbers of votes shall be elected for terms of four (4) years and the three (3) candidates receiving the next highest numbers of votes shall be elected for terms of two (2) years. Beginning in the regular election in 1977, and in subsequent elections, all terms shall be for four (4) years.

"Sec. 4.2. 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 and not 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), shall be signed in the presence of the Town Clerk, 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 Pine Knoll Shores, 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 Pine Knoll Shores residing at _____.

(Signature) (Date)

"Sec. 4.3. 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. The elections shall be held and conducted by the Carteret County Board of Elections under the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes. The elections shall be nonpartisan and decided by a simple plurality. No primary election shall be held.

"ARTICLE V. TOWN ATTORNEY

"Sec. 5.1. Appointment; Qualifications; Terms; Compensation. The Board of Commissioners may 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 and shall receive such compensation as the Board shall determine.

"Sec. 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; 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

"Sec. 6.1. Town Clerk. The Board of Commissioners may 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.

"Sec. 6.2. Town Tax Collector. The Board of Commissioners may appoint a Tax Collector to collect all taxes, licenses, fees, and other monies 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, and foreclosure of taxes by municipalities.

"Sec. 6.3. Town Accountant. The Board of Commissioners may appoint a Town Accountant to perform the duties of the Accountant as required by the Municipal Fiscal Control Act.

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

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

"ARTICLE VII. FINANCE

"Sec. 7.1. Custody of Town Money. All monies received by the Town for and 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 monies belonging to the Town shall accrue to the benefit of the Town. All monies belonging to the Town shall be disbursed only in accordance with the provisions of the Municipal Fiscal Control Act.

"Sec. 7.2. 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.

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

"Sec. 7.4. 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 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.

"Sec. 7.5. Taxation. The territory within the corporate limits, and its citizens and property, shall be subject to municipal taxes levied by the Town. For the purpose of levying taxes for the fiscal year beginning July 1, 1973, the Town shall obtain from Carteret County, and the Carteret County Tax Supervisor shall provide upon request from time to time a record of property within the corporate limits listed for taxation as of January 1, 1973.

"Sec. 7.6. The Board of Commissioners shall not expend tax monies in excess of ten thousand dollars (\$10,000) for any single new facility or major improvement without first obtaining the approval of at least a majority of the qualified voters of the Town.

"ARTICLE VIII. CLAIMS AGAINST THE TOWN

"Sec. 8.1. 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."

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 application 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 laws and clauses of laws in conflict with the provisions of this act are hereby repealed to the extent of such conflict.

Sec. 8. 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 25th day of April, 1973.