

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 513
HOUSE BILL 700

AN ACT TO INCORPORATE THE TOWN OF INDIAN BEACH IN CARTERET
COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The following provisions of law shall constitute the Charter of the Town of Indian Beach in Carteret County.

"THE CHARTER OF THE TOWN OF INDIAN BEACH.

"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 Indian Beach', 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 Town Board and as provided by the general laws of North Carolina pertaining to cities and towns.

"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 Indian Beach shall have and may exercise all powers which are granted to cities and towns 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 Indian Beach, until changed in accordance with law are as follows:

BEGINNING at the southeastern-most boundary line point of the corporate limits of the Town of Emerald Isle as amended by Chapter 220 of the Session Laws of the

1967 General Assembly; the southwestern-most boundary line point of Indian Beach being the same as the southeastern-most boundary line of Emerald Isle; thence in a northerly direction along the eastern boundary line of Emerald Isle to the high water mark of Bogue Sound; thence due north to a point 2,640 feet in Bogue Sound; thence in an easterly direction parallel to and 2,640 feet from the high water mark of Bogue Sound to a point in Bogue Sound 2,640 feet due north of the northwestern-most boundary line of Salter Path; thence due south to the northwestern-most boundary line point of Salter Path; thence in a southerly direction along the western boundary line of Salter Path to the high water mark of the Atlantic Ocean; thence due south to a point 2,640 feet in the Atlantic Ocean; thence in a westerly direction parallel to and 2,640 feet from the high water mark of the Atlantic Ocean to a point in the Atlantic Ocean 2,640 feet due south of the high water mark of the Atlantic Ocean which is the southeastern-most boundary line point of Emerald Isle; the point of beginning.

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS.

"Sec. 3.1. Temporary Officers. Until the initial election provided for by Section 4.1 of this Charter, Wayne E. Thompson is hereby appointed Mayor, and David M. Lindsay, W.L. Fugate, Edward Willis, and Walter C. Latham are hereby appointed Commissioners of the Town of Indian Beach, and they shall possess and may exercise the powers granted to the Mayor and Board of Commissioners until their successors are elected and qualified pursuant to this Charter.

"Sec. 3.2. 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. In the 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 Town Board. When there is an equal division upon on 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 Town Board shall choose one of its members 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. 3.3. Composition of Town Board. The Town Board shall consist of five (5) members to be elected by and from the qualified voters of the Town voting at large in the manner provided by Article IV.

"Sec. 3.4. Terms; Qualifications; Vacancies.

(a) Except for the terms of office as specified in Section 3.1 and Section 4.1 herein, the members of the Town Board 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 qualified.

(b) No person shall be eligible to be a candidate or be elected as a member of the Town Board, 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. 3.5. Compensation of Mayor and Commissioners. The Town Board may fix its own compensation and allowances in accordance with G.S. 160A-64. Any action taken under this section shall be published at least once in some newspaper having general circulation in Indian Beach, as provided by North Carolina General Statute 1-597.

"Sec. 3.6. Organization of Board; Oaths of Office. Following each biennial election, the Town Board shall meet, elect the Mayor and organize for the transaction of business as provided in G.S. 160A-68. 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 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 _____, on which I am about to enter, according to my best skill and ability; so help me, God.'

"Sec. 3.7. Meetings of Board.

(a) The Town Board shall fix by ordinance suitable times for its regular meetings, which shall be as often as once monthly. Special meetings may be held as provided in G.S. 160A-71.

"Sec. 3.8. Quorum; Votes. Voting procedures and quorum shall be as provided in G.S. 160A-72, 160A-73, 160A-75 and 160A-76.

"Sec. 3.9. 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 enacting clause of all ordinances shall be: 'Be it ordained by the Town Board of the Town of Indian Beach'. 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. ELECTIONS PROCEDURE.

"Sec. 4.1. Regular Municipal Elections. Regular municipal elections shall be held on the date and in the manner provided in Chapter 163, Subchapter IX of the General Statutes. In the regular election in 1973, there shall be elected five (5) Commissioners. The three (3) candidates receiving the highest numbers of votes shall be elected for terms of four (4) years and the other two (2) candidates shall be elected for terms of two (2) years. Beginning in the regular election in 1975, and in subsequent elections, all terms shall be for four (4) years.

"Sec. 4.2. Regulation of Elections. All municipal elections shall be conducted by the Carteret County Board of Elections in accordance with the general laws of North

Carolina relating to municipal elections, except as otherwise herein provided. The elections shall be non-partisan and decided by simple plurality. No primary election shall be held.

"ARTICLE V. TOWN ATTORNEY.

"Sec. 5.1. Appointment; Qualifications; Terms; Compensation. The Town Board 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 Town 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, Town Board, 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 meetings of the Town Board upon request; 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 Town Board 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.

"Sec. 6.2. Town Tax Collector. The Town Board 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.

"Sec. 6.3. Town Accountant. The Town Board shall appoint a Town Accountant to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.4. Consolidation of Functions. The Town Board 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 Town Board 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. In general. The fiscal affairs of the Town shall be governed by Chapter 159 of the General Statutes and other pertinent provisions of the general laws of the State.

"Sec. 7.2. Taxation. The Territory within the corporate limits, and its citizens and property, shall be subject to municipal taxes levied by the Town for the fiscal year 1973-74 and subsequent years. The Town may obtain from Carteret County, and the Carteret County Tax Supervisor shall provide upon request a record of property within the corporate limits which was listed for taxation as of January 1, 1973.

"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 Town Board 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 before the expiration of thirty (30) days after the claim or demand is presented 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. 2. 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 applications 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. 3. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed, to the extent of such conflict.

Sec. 4. 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 16th day of May, 1973.