

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 57
HOUSE BILL 132

AN ACT TO INCORPORATE THE VILLAGE OF CLEMMONS IN FORSYTH
COUNTY, SUBJECT TO REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. (a) The Forsyth County Board of Elections shall conduct an election on Tuesday, May 12, 1981, for the purpose of submitting to the qualified voters of the area described in Section 2.1. of the Charter of the Village of Clemmons, the question of whether or not such area shall be incorporated as the Village of Clemmons. Registration for the special election shall be conducted in accordance with the provisions of Chapter 163 of the General Statutes, especially G.S. 163-288.2.

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

Sec. 2. In such special election, if a majority of the votes cast shall be cast "AGAINST Incorporation of Clemmons", then Section 3 through 6 of this act shall have no force and effect.

Sec. 3. In such special election, if a majority of the votes cast shall be cast "FOR Incorporation of Clemmons" then: (i) Sections 4, 5, and 6 of this act shall become effective on the date that the Forsyth County Board of Elections determines the result of the election, and (ii) John F. Hunter, Robert Gleason, Jane Wold, Sanford S. Stimpson, and Dennis Brewer are hereby appointed as the Village Council of the Village of Clemmons to serve until their successors are elected and qualify.

Sec. 4. The Village Council appointed pursuant to the preceding section shall possess and may exercise all the powers, except the power to levy ad valorem taxes on real and personal property, granted by the Charter and general laws of North Carolina to the Village of Clemmons. They shall select from among their members a chairman, to exercise the powers of Mayor until a Mayor is elected and qualifies as provided in Section 5 of the act. The chairman so selected shall vote as a member of the council, but shall not vote again when there is an equal division among the other members on a question. They shall serve until the organizational meeting following the 1981 municipal election.

Sec. 5. The Village Council may adopt a budget ordinance for the 1981-82 fiscal year, following their qualification for office, without having to comply with the budget preparation and adoption timetable set out in the Local Government Budget and

Fiscal Control Act. The Village Council elected in the 1981 municipal election may, not later than January 1, 1982, adopt an ad valorem tax on real and personal property for the 1981-82 fiscal year, and taxes may be paid at par or face amount within 90 days of adoption of said tax, and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due on September 1, 1981.

Sec. 6. The following provisions of law shall constitute the Charter of the Village of Clemmons:

"CHARTER OF THE VILLAGE OF CLEMMONS.

"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 'Village of Clemmons' and shall be vested with all property which may be acquired by the Village, 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.

The Village of Clemmons shall be vested with all municipal powers, functions, rights, privileges and immunities conferred by the Constitution and laws of the State of North Carolina upon municipalities and especially Chapter 160A of the General Statutes.

"Sec. 1.2. Exercise of powers. All powers, functions, rights, privileges, and immunities of the Village, 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 Village Council and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. Rate limitation on taxation. Notwithstanding the provisions of North Carolina General Statute 160A-209(d), and the rate limitation set out in 160A-209(d), the Village Council may levy property taxes only up to a combined rate of twenty cents (20c) on the one hundred dollar (\$100.00) appraised value of property subject to taxation, without an approving vote of the people as provided in G.S. 160A-209(e), G.S. 160A-209(f), or in Chapter 159 of the General Statutes. Any tax levy approved by the people shall not count for the purposes of rate limitation imposed herein.

"ARTICLE II.

"Corporate Boundaries.

"Sec. 2.1. Corporate boundaries. The corporate boundaries of the Village of Clemmons shall be as follows until changed in accordance with law:

BEGINNING at an iron in the eastern bank of the Yadkin River at its point of intersection with the southern right-of-way line of U.S. Highway No. 158, said iron being a horizontal control point established with reference to the North Carolina State Grid System having coordinates of N - 826,994.203 and E - 1,580,843.009, running thence with the southern right-of-way line of U.S. Highway No. 158 the seven (7)

following courses and distances: North 53° 38' 20" East 308.73 feet to an iron; North 55° 19' 16" East 104.62 feet to an iron; thence on a curve to the right on a chord North 59° 17' 17" East 413.04 feet to an iron (said curve having a delta angle of 07° 55' 57", a radius of 2,985.71 feet, a point of tangency of 207.1 feet, and length of arc of 413.37 feet); North 63° 15' 15" East 1,091.57 feet to an iron at or near the eastern edge of the eastern branch of the main entrance road to Tanglewood Park; North 63° 16' 15" East 1,139.05 feet to an iron; thence on a curve to the right on a chord North 71° 30' 49" East 288.30 feet to an iron (said curve having a delta angle of 16° 29' 08", a radius of 1,005.45 feet, a point of tangency of 145.65 feet, and a length of arc of 289.30 feet); and North 79° 45' 21" East 604.64 feet to an iron, said iron being the northwest corner of a 20 foot strip of land owned by the Heirs of Minnie L. Craver (see Deed Book 235 at page 310, Forsyth County Registry); thence North 78° 08' 27" East, 20.03 feet to an iron; thence with the southern right of way of U.S. Highway No. 158 North 75° 06' 43" East 1,389.77 feet to an iron; thence on a curve to the right on a chord North 88° 19' 38" East 385.04 feet to an iron stake; thence with Daniel L. Crandell's west line South 01° 03' 51" East 1,458.61 feet to an iron, said iron being the southwest corner of the Daniel L. Crandell tract and also being in the northern line of the Minnie L. Craver Heirs property; thence with the Craver Heirs' property the four (4) following courses and distances: South 89° 08' 57" West 1,089.17 feet to an iron; thence North 04° 58' 49" West 436.48 feet to an iron; North 88° 01' 34" West 627.22 feet to a point in the line of Tanglewood Park (Book 1193, page 1576, Tract 1; thence South 01° 53' 49" East 447.4 feet to a concrete post in the northern line of Anna C. Cobb property as described in Deed Book 1018 at page 158, Forsyth County Registry; thence with Cobb's north line South 88° 47' 08" West 206.65 feet to a concrete post, Cobb's northwest corner; thence with Cobb's west line South 01° 21' 26" West 884.02 feet to an iron, said iron being Cobb's southwest corner and E. H. Craver's northwest corner (see Deed Book 951 at page 489, Forsyth County Registry); thence with Craver's west line South 01° 21' 09" West 884.99 feet to a concrete post; thence with Craver's south line North 88° 14' 06" East 297.13 feet to a concrete post, said post being the northwest corner of property owned by W. Bryan White and Associates Co-Op; thence with W. Bryan White and Associates Co-Op's West line South 15° 42' 44" East, 2,471.36 feet to a concrete post; thence continuing South 15° 42' 44" East, 15.0 feet to the center of a creek; thence with said creek the nine (9) following courses and distances: North 82° 42' 06" East, 468.62 feet to a point; North 65° 08' 40" East, 178.23 feet to a point; North 76° 25' 12" East, 149.75 feet to a point; South 71° 54' 38" East, 128.07 feet to a point; South 84° 14' 21" East, 38.86 feet to a point; North 86° 25' 52" East, 143.57 feet to a point; South 72° 34' 12" East, 32.52 feet to a point; North 48° 06' 23" East, 25.74 feet to a point, and North 66° 49' 44" East, 237.54 feet to a point; thence leaving said creek and continuing with W. Bryan White and Associates' West line the three (3) following courses and distances: South 04° 41' 51" West, 570.72 feet to a concrete post; South 38° 58' 08" West, 540.88 feet to a concrete post; and South 31° 42' 39" East, 3,055.59 feet to an iron in the Northwestern right-of-way line of Idols Road (see Deeds in Book 1043, at Page 158, and Book 1107, at Page 1703, for reference to White's land); thence along the same line South 31° 42' 39" East to a point 1200 feet Southeast of the center line of the

Southern Railway right-of-way; thence in an Easterly direction with a line 1200 feet southeast of and parallel to the center line of the Southern Railway right-of-way to a point 200 feet East of the center line of Hampton Road; thence in a Northerly direction with a line 200 feet East of and parallel to the center line of Hampton Road to a point in the center line of the Southern Railway right-of-way; thence along the center line of the Southern Railway right-of-way in an Easterly direction to a point 1600 feet East of Hampton Road; thence in a Northerly direction with a line 1600 feet East of and parallel to Hampton Road to a point 600 feet South of the center line of U.S. Highway 158; thence in an Easterly direction with a line 600 feet South of and parallel to the center line of U.S. Highway 158 to a point in the center of Muddy Creek; thence in a Northwesterly direction with the center of Muddy Creek as it meanders to a point approximately 560 feet North of the center line of Peace Haven Road, said point being the Northeast corner of Lot 5-B, Tax Block 4233; thence along Lots 1 through 5 in the division of lands of Emoline Harper (Will Book 9, Page 285) the following courses and distances: North 66° 20' West, 326 feet to an iron; South 0° 30' West, 125 feet to an iron; North 89° 30' West, 543.6 feet to an iron; the Northwest corner of Lot 1; thence South 8° West, 600 feet to an iron; thence along Shugart Enterprises Southern line (Deed Book 1280, Page 292) in a Westerly direction approximately 2805 feet to an iron, the Southeast corner of Barron's Tract (Deed Book 1198, Page 122); thence along Barron's line, North 84° 58' West, 500 feet to an iron stake; thence with Barron's West line, North 4° 13' West, 780.8 feet to an iron; thence South 82° 30' West approximately 1157 feet to a point 200 feet West of the center line of Lewisville-Clemmons Road; thence with a line 200 feet West of and parallel to Lewisville-Clemmons Road in a Southerly direction approximately 437 feet to a point in the center line of State Road Number 1143, thence due West approximately 2400 feet to a point in the center of Blanket Bottom Creek; thence in a Southwesterly direction with the center of Blanket Bottom Creek as it meanders to a point in the center line of Harper Road; thence in a Southerly direction with the center line of Harper Road to the point of intersection with the Clemmons Township line; thence in a Westerly direction with the Clemmons Township line approximately 2100 feet to a point in the center of Blanket Bottom Creek; thence in a Southwesterly direction with the center of Blanket Bottom Creek as it meanders to a point 800 feet South of the center line of Peace Haven Road; thence in a Westerly direction with a line 800 feet South of and parallel to the center line of Peace Haven Road to a point 200 feet West of the center line of Lasater Road; thence in a Southerly direction with a line 200 feet West of and parallel to Lasater Road to a point in the North line of Lasater Downs (Plat Book 27, Page 51); thence along the line with Lasater Downs North 67° 33' 36" West, 169.12 feet to an iron stake in Lamberti's line; thence along a line with Lasater Downs and beyond South 51° 37' 47" East, approximately 2360 feet to the East bank of the Yadkin River; thence with the East bank of the Yadkin River approximately 8500 feet to an iron stake in the Southern right-of-way of U. S. Highway 158, the point and place of BEGINNING.

"ARTICLE III.

"Mayor and Village Council.

"Sec. 3.1. Mayor and Mayor Pro Tempore. The Mayor shall be elected by and from the qualified voters of the Village voting at large in the manner provided in Article IV. The Mayor shall be the official head of the Village government and shall preside at all meetings of the Village Council. When there is an equal division upon any question, or in the appointment of officers, by the Council, 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 Village. The Village Council 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 Council.

"Sec. 3.2. Composition of Village Council. Except for the initial Village Council appointed by Section 3 of this act, the Village Council shall consist of four members who shall be elected by all of the voters of the Village voting at large in the manner provided in Article IV of this Charter.

"Sec. 3.3. Terms; qualifications; vacancies. (a) The Mayor shall be elected for a term of two years. The members of the Village Council, except as provided in Section 4.3 of this Charter, shall be elected for terms of four years.

(b) To be eligible to be elected as Mayor or as a member of the Village Council or to serve in any of those offices a person shall be a qualified voter and a resident of the Village.

(c) If any elected Mayor or Councilman shall refuse to qualify, or if there shall be any vacancy in the office of Mayor or Councilman after election and qualification, the remaining members of the Council shall by majority vote appoint some qualified person to serve for the unexpired term. Any Mayor or Councilman so appointed shall have the same authority and powers as if regularly elected.

(d) No person shall be eligible to be elected to Mayor or Councilman for more than two successive terms as provided above.

"Sec. 3.4. Organizational meeting. The organizational meeting of the Village Council shall be as provided in G.S. 160A-68.

"Sec. 3.5. Ordinances. The enacting clause of all ordinances shall be 'Be it ordained by the Village Council of the Village of Clemmons'.

"ARTICLE IV. "Election Procedure.

"Sec. 4.1. Procedure. Elections shall be conducted in accordance with Subchapter IX of Chapter 163 of the General Statutes.

"Sec. 4.2. Results of elections. All elections in the Village of Clemmons shall be conducted under the nonpartisan plurality method, and the results determined under G.S. 163-292.

"Sec. 4.3. Election of Mayor. In 1981 and biennially thereafter, a Mayor shall be elected for a term of two years. In the 1981 municipal election, four council members shall be elected. The two receiving the largest number of votes shall be elected for terms of four years, and the two receiving the next highest number of votes shall be elected for

terms of two years. In 1983 and biennially thereafter, two council members shall be elected for terms of four years.

"ARTICLE V.

"Village Attorney.

"Sec. 5.1. Appointment; qualifications; term; compensation. The Village Council shall appoint a Village 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 Village during his tenure. The Village Attorney shall serve at the pleasure of the Village Council and shall receive such compensation as the Council shall determine.

"Sec. 5.2. Duties of Village Attorney. It shall be the duty of the Village Attorney to prosecute and defend suits for and against the Village; to advise the Mayor, Village Council, and other Village officials with respect to the affairs of the Village to draw all legal documents relating to the affairs of the Village; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Village may be concerned; to attend meetings of the Village Council as required by the Council, and to perform such other duties as may be required of him by virtue of his position as Village Attorney.

"ARTICLE VI.

"Form of Government.

"Sec. 6.1. Council-Manager form of government. The Village of Clemmons shall be governed by the Council-Manager form of government, as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"ARTICLE VII.

"Recall of Elected Officials.

"Sec. 7.1. Removal of office holders. Absence from five consecutive regular meetings shall operate to vacate the seat of a Council member, unless the absence is excused by the Council by resolution setting forth the reason. Such resolution shall be entered upon the minutes.

"Sec. 7.2. The Mayor or any member of the Village Council may also be removed from office in the following manner:

(1) Any elector of the Village may make and file with the Village Clerk an affidavit containing the name of the Village officer whose removal is sought and a statement of the grounds alleged for his removal. The Clerk shall thereupon deliver to the elector making such affidavit copies of petition blanks for demanding such a removal, printed forms of which he shall keep on hand. Such blanks shall be issued by the Clerk with his signature thereto attached and shall be dated and addressed to the Council, indicate the person to whom issued, and state the name of the officer whose removal is sought. A copy of the petition shall be entered in a record book kept for that purpose in the office of the Clerk. A recall petition to be effective must be returned and filed with the Clerk within 30 days after the filing of the affidavit, and to be sufficient must bear the signature of at least twenty-five percent (25%) of the registered voters of the Village as shown by the registration records of the immediately preceding general municipal election. A recall petition, if insufficient as originally filed, may be amended as hereinafter provided.

(2) If a recall petition, or amended petition shall be certified by the Clerk to be sufficient he shall at once submit it to the Council with his certificate to that effect and shall notify the officer whose removal is sought of such action. If the officer whose removal is sought does not resign within 5 days after such notice, the Council shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than 60 nor more than 90 days after the petition has been certified to the Council, and it may be held at the same time as any other general or special election within such period; but if no other election is to be held within such period the Council shall call a special recall election to be held within the time aforesaid.

(3) The question of recalling any number of officers may be submitted at the same election, but as to each such officer a separate petition shall be filed and there shall be an entirely separate ballot.

(4) The ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer).

Against the recall of (name of officer).

Except that the spaces left for the name and date shall be filed by the correct names and dates, the ballots used in a recall election shall be in form substantially as follows:

RECALL ELECTION VILLAGE OF CLEMMONS

_____ (Month and day of month) _____ 19 _____

For the recall of _____

(5) If a majority of the votes cast on the question of recalling an officer be against his recall he shall continue in office for the remainder of the unexpired term, but subject to the recall as before. If a majority of such votes be for the recall of the officer designated on the ballot, he shall, regardless of any defects in the recall petition, be deemed removed from office.

(6) If an officer in regard to whom a sufficient recall petition is submitted to the Council shall resign before the election, or be removed as a result thereof, the vacancy so caused shall be filled in the manner provided by this Charter for filling vacancies in such office, except as provided in Section 7.2(h). But an officer removed by the voters as the result of a recall election, or resigning after a sufficient petition for his recall has been submitted to the Council, shall not be reelected to fill the vacancy caused by his own removal or resignation.

(7) No recall petition shall be filed against an officer within three months after he takes office, nor, in case of an officer subjected to a recall election and not removed thereby, until at least six months after that election.

(8) If the recall of a majority of the members of the Village Council, including the Mayor as one of the members, shall be effected at a single recall election, the successors of the officers recalled shall be elected by the registered, qualified voters of the Village at a special municipal election, and said successors shall serve for the unexpired part of the terms of the officers recalled. The members of the Village Council who have not been recalled are empowered to call said special election and to make all necessary provisions regarding the same in conformity to the Constitution and general laws of North Carolina. If the recall of all of the members of the Village Council,

including the Mayor, shall be effected at a single recall election, they shall be continued in office for the purpose, and only for the purpose, of calling a special municipal election for the election of their successors as above provided, and of ascertaining and declaring the result thereof.

"ARTICLE VIII.

"Zoning.

"Sec. 8.1. Zoning. Current zoning ordinance in effect in Forsyth County shall remain in full force and effect until such time as the Village Council of the Village of Clemmons enacts a zoning ordinance pursuant to law. The Forsyth County Board of Commissioners shall have full authority to administer and enforce the current ordinance or any amendment to said ordinance until such time that the Village Council of the Village of Clemmons shall enact a zoning ordinance pursuant to law.

"Sec. 8.2. No extraterritorial zoning, subdivision control, or building inspections. The Village of Clemmons may not exercise any power granted by Article 19 of Chapter 160A of the General Statutes, beyond the corporate limits of the Village.

"ARTICLE IX.

"Charter Amendments.

"Sec. 9.1. Any amendment to this Charter initiated locally, save and except those amendments permitted by G.S. 160A-101 through G.S. 160A-110, must be approved by a simple majority of the voters of the Village of Clemmons in a referendum, prior to submission to the North Carolina General Assembly for approval. Initiative petition and referendum procedure shall be governed by G.S. 160A-104 and G.S. 160A-105."

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1981.