

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 52
SENATE BILL 73

AN ACT TO INCORPORATE THE TOWN OF CAJAH MOUNTAIN IN CALDWELL COUNTY.

Whereas, the Community of Cajah Mountain desires to be incorporated as an incorporated town; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Charter for the Town of Cajah Mountain shall be as follows:

"CHAPTER I.

"Incorporation and Corporate Powers.

"Section 1.1. Incorporation. The citizens of the area described in Chapter II of this act shall be and constitute a body politic and corporate under the name of 'Town of Cajah Mountain', and shall have all of the powers, authority, rights, privileges, and immunities conferred upon municipal corporations by the Constitution and general laws of North Carolina.

"Sec. 1.2. Powers. The Town shall have all the powers, duties, rights, privileges and immunities now vested in the Town and now or hereafter granted to municipal corporations by the Constitution, by the general laws of the State of North Carolina, and by this Charter. The Town shall exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, and general welfare of the Town and of its citizens, unless otherwise prohibited in this Charter.

"Sec. 1.3. Annexation and Limits on Annexation. The Town of Cajah Mountain may not annex, pursuant to Article 4A Parts 2 or 3 of General Statutes Chapter 160A, areas contiguous to its primary corporate limits, unless a petition in support of the annexation signed by seventy percent (70%) of the registered voters living in the area proposed for annexation, is filed with the Town Clerk prior to adoption of the annexation ordinance.

"CHAPTER II.

"Corporate Boundaries.

"Sec. 2.1. Until changed in accordance with law, the boundaries of the Town are: Beginning at a point in the center of State Road 1169 at its junction with State Road 1276 a line in a Northwest direction 1175 feet to a point in the South shoulder of State Road 1153 at its junction with State Road 1001. From this point following the South shoulder of State Road 1153 in a Southwest direction 2,489 feet to a point in the shoulder of State Road 1153 at its junction with Bishop Drive. From this point, a line in a Southeast direction 1175 feet to a point in the center of Floral Drive at its dead end.

From this point a line in a Southwest direction 4,414 feet to a point in the shoulder of State Road 1146 at its junction with the West leg of State Road 1154. From this point a line in a Southeast direction 6,300 feet of a point in the center of State Road 1134 at its junction with the East leg of State Road 1135. From this point a line in a Southwest direction 5,212 feet to a point in the center of State Road 1001, (the Wayne Beane-W. P. Bolick Corner). From this point, a line in a Northeast direction 1,800 feet to a point in the center of State Road 1130, (the E. M. White-Donald Jolly corner). From this point, a line in a Northern direction 9,575 feet to a point in the center of State Road 1156 at its junction with State Road 1159. From this point, a line in a Northwest direction 5,600 feet to the beginning.

"CHAPTER III.

"Governing Body.

"Sec. 3.1. Number of members. The governing body shall consist of five members called aldermen.

"Sec. 3.2. Manner of election of aldermen. The qualified voters of the entire Town of Cajah Mountain shall elect the aldermen.

"Sec. 3.3. Term of office of aldermen. Five aldermen are to be elected at the first regular Town election in November of 1983. The three persons who receive the highest number of votes shall serve a four-year term, and the two persons receiving the next highest number of votes shall serve a two-year term. The terms will continue to be staggered, with ensuing aldermen being elected for four-year terms. No aldermen shall serve more than two consecutive terms.

"Sec. 3.4. Mayor. The Town of Cajah Mountain will not elect a mayor, but a chairman will be selected from the Board of Aldermen by the Board of Aldermen, whose duties will be the same as those duties a traditional mayor would perform.

"Sec. 3.5. Recall. Any member of the Board of Aldermen may be removed from office in the following manner:

- (1) Any elector of the Town may make and file with the Town Clerk an affidavit containing the name of the alderman 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 Board of Aldermen, 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 thirty-three per centum (33%) of the registered voters of the Town as shown by the registration records for the last preceding general municipal election.
- (2) If a recall petition shall be certified by the Clerk to be sufficient he shall at once submit it to the Board of Aldermen 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 five days after such notice the Board of Aldermen shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than 70 nor more than 100 days after the petition has been certified to the Board of Aldermen, 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 Board of Aldermen 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 filled by the correct names and date, the ballots used in a recall election shall be in form substantially as follows:

'RECALL ELECTION
Town of Cajah Mountain
(Month and day of month) _____ 19 _____

[] For the recall of _____.
[] Against 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 Board of Aldermen 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 subdivision (8) of this section. 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 Board of Aldermen, 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 Board of Commissioners shall be effected at a single recall election, the successors of the officers recalled shall be elected by the registered, qualified voters of the Town 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 Board of Aldermen 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 Board of Aldermen 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.

"Sec. 3.6. Pay for aldermen. The aldermen shall receive no pay.

"CHAPTER IV.

"Elections.

"Sec. 4.1. Conduct of Town elections. The Town officers shall be elected on a nonpartisan basis, and the results determined by plurality as provided in G.S. 163-292. Elections shall be conducted by the Caldwell County Board of Elections."

Sec. 2. Interim budget. The Board of Aldermen may adopt a budget ordinance for the 1983-84 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. If the initial budget is adopted after January 1, 1984, then taxes may be paid at par on face amount within 90 days of adoption of the budget, and thereafter according to the schedule in G.S. 105-360 as if the taxes had been due on September 1, 1983.

Sec. 3. Special election for approval. (a) The Board of Elections in Caldwell County is hereby authorized and directed to call and conduct a special election on a date to be set by the Caldwell County Board of Commissioners not earlier than 60 days after ratification of this act but not later than 90 days after ratification of this act for the purpose of submitting to the qualified voters of the area heretofore described as the proposed corporate limits of the Town of Cajah Mountain, the question of whether or not such area shall be incorporated as a municipal corporation known as the Town of Cajah Mountain. In conducting the election required to be held by this act, the Board of Elections of Caldwell County shall follow the procedures contained in G.S. 163-288.2, in this act, and the procedures contained in Chapter 163 of the General Statutes of North Carolina regarding municipal elections, where the same are not in conflict with this act, except that notice of the election shall be given not later than 10 days before the registration books close and the Board of Elections may set a special schedule under G.S. 163-288.2 with deadlines it determines, if there is insufficient time to meet the time requirements of that section.

(b) In the special election, those voters who favor the incorporation of the Town of Cajah Mountain as provided in this act shall vote a ballot upon which shall be printed the words:

"FOR Incorporation of the Town of Cajah Mountain"; and those voters who are opposed to the incorporation of the Town of Cajah Mountain as provided in this act shall vote a ballot upon which shall be printed the words "AGAINST Incorporation of the Town of Cajah Mountain".

If the majority of the votes cast in such special election shall be cast "AGAINST Incorporation of the Town of Cajah Mountain", then the provisions of Sections 1 and 2 of this act shall have no force and effect.

If a majority of the votes cast in the special election shall be cast "FOR Incorporation of the Town of Cajah Mountain", then the provisions of this act shall be in full force and effect from and after the date upon which the Caldwell County Board of Elections determines the result of the election.

Sec. 4. Vacancies. The provisions of G.S. 160A-63 shall not apply to the Town of Cajah Mountain until after the first election for Board of Aldermen.

Sec. 5. Effective date. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1983.