

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SESSION LAW 2011-166
SENATE BILL 237**

AN ACT TO INCORPORATE THE TOWN OF CASTLE HAYNE, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Town of Castle Hayne is enacted to read:

"CHARTER OF THE TOWN OF CASTLE HAYNE.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Castle Hayne are a body corporate and politic under the name "Town of Castle Hayne." The Town shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Castle Hayne are as follows:

BEGINNING at a point in the centerline of N.C. Highway No. 133 at the Northern New Hanover County boundary line; thence in a westerly direction; thence northerly, along the New Hanover County boundary line to a point intersecting the southern boundary line of PIN #3232-19-5017.000; thence westward of said parcel along the southern boundary to PIN #3212-83-7918.000; thence west along the southern boundary line; thence south along the eastern boundary line; thence east to intersect Prince George Creek; thence joining the southern bank of Prince George Creek; thence west along the southern bank to intersect with the eastern boundary lines of PIN #3221-28-5577.000; thence south along the eastern side to PIN #3221-36-7616.000 northern tip; thence north along the western side; thence east of said parcel along the northern boundary line; thence south of said parcel along the eastern boundary line to the centerline point of Sondey Rd; thence east along the centerline of said road to the intersection of the centerline of N.C. Highway No. 133; thence north on centerline of said road to the intersection of the centerline of Parmele Rd; thence east on the centerline line of said road to the centerline of N.C. Highway No. 132; thence south on the centerline to southern tip of PIN #3231-63-0919.000; thence east along the southern boundary line to PIN #3231-63-2909.000; thence south along the western boundary line to PIN #3231-63-2886.000; thence south along the western boundary line to the eastern boundary line of PIN #3231-64-6255.000; thence north along the western boundary line; thence east along the northern boundary line to PIN #3231-74-0048.000; thence east along the northern boundary line to PIN #3231-83-1775.000; thence north along the eastern boundary line to PIN #3231-84-5481; thence east along the southern boundary line to the centerline point of Blue Clay Rd; thence north of said road to the point of intersection at the right-of-way of Interstate 40; thence crossing said interstate in a line connecting to the continuation of the centerline of Blue Clay Rd on the northern boundary of the interstate right-of-way at the centerline of Blue Clay Rd; thence north on said road to PIN #3241-06-4363.000; thence east along said parcel along the southern boundary line to PIN #3241-06-6234.000; thence east along the southern boundary line to PIN #3241-05-7293.000; thence east along the northern boundary line to PIN



#3241-15-4490.000; thence east along the northern boundary line to PIN #3241-26-3164.000; thence east along the western boundary line north to PIN #3241-26-4528.000; thence east along the southern boundary line; thence north along the eastern boundary line to PIN #3241-26-9929; thence east of said parcel along the southern boundary line to PIN #3241-88-1225.000; thence north of said parcel along the western boundary line; thence west; thence north along the centerline at Blue Clay Rd; thence east along the northern boundary line to PIN #3251-63-1678.000; thence north of said parcel along the western boundary line to the centerline point at Holly Shelter Rd; thence east along of said road centerline to New Hanover County boundary line; thence north along the county line to the New Hanover County boundary line at the North East Cape Fear River; thence west along the northern boundary of the New Hanover County line to the starting point at centerline of N.C. Highway No. 133 at the Northern New Hanover County boundary line.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Castle Hayne is the Mayor and the Town Council, which shall have four members.

"Section 3.2. **Manner of Electing Town Council; Terms; Vacancies.** The qualified voters of the entire Town shall elect the members of the Town Council and, except as provided in this section, they shall serve four-year terms. In 2011, the two candidates receiving the highest numbers of votes shall be elected to four-year terms, and the two candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2013, and quadrennially thereafter, two members shall be elected to four-year terms. In 2015, and quadrennially thereafter, two members shall be elected to four-year terms. Vacancies on the Town Council shall be filled as provided in G.S. 160A-63.

"Section 3.3. **Manner of Electing Mayor; Term of Office; Duties.** The qualified voters of the entire Town shall elect the Mayor. In 2011, and biennially thereafter, the Mayor shall be elected for a term of two years. The Mayor shall attend and preside over meetings of the Town Council, shall advise the Town Council from time to time as to matters involving the Town of Castle Hayne, and shall have the right to vote as a member of the Town Council on all matters before the Town Council, but shall have no right to break a tie vote in which the Mayor has participated. Vacancies in the office of Mayor shall be filled as provided in G.S. 160A-63.

"Section 3.4. **Manner of Electing Mayor Pro Tempore; Term of Office; Duties.** The Mayor Pro Tempore shall be elected from among the members of the Town Council at the organizational meeting after the initial election in November 2011 and shall serve for a term of two years. The Mayor Pro Tempore shall act in the absence or disability of the Mayor. If the Mayor and Mayor Pro Tempore are both absent from a meeting of the Town Council, the members of the Town Council present may elect a temporary chair to preside in the absence from amongst the members of the Council. The Mayor Pro Tempore shall have the right to vote on all matters before the Town Council and shall be considered a member of the Town Council for all purposes.

"Section 3.5. **Residency Requirement.** Members of the governing body of the Town of Castle Hayne, whether elected or appointed, must be qualified voters who reside within the corporate limits of the Town in order to qualify to take, hold, and continue in office.

"Section 3.6. **Compensation of Mayor and Town Council.** The Mayor of the Town of Castle Hayne shall be paid an annual sum of one thousand five hundred dollars (\$1,500) as compensation for his or her services, and each member of the Town Council shall be paid an annual sum of one thousand dollars (\$1,000) as compensation for his or her services. In addition, the Mayor and the members of the Town Council shall be entitled to reimbursement for ordinary and necessary travel, training, or other expenses incurred in the course of performing their official duties, subject to adopted Town Council policies. The Town Council

may, from time to time, establish rates and amounts of reimbursement which shall not be exceeded without prior approval of the Town Council.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

"Section 4.2. **Date of Election.** Elections shall be conducted in accordance with Chapter 163 of the General Statutes, with the first regular municipal election to be held on November 8, 2011.

"Section 4.3. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by the general law of North Carolina, local acts of the General Assembly, or as provided for in this Charter.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Town Attorney.** The Town Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Town Council may direct.

"Section 5.3. **Town Clerk.** The Town Council shall appoint a Town Clerk to keep a journal of the proceedings of the Town Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Town Council may direct.

"Section 5.4. **Other Administrative Officers and Employees.** The Town Council may authorize other offices and positions and appoint persons to fill the offices and positions. The Town Council may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Section 5.5. **Advisory Groups and Boards.** The Town Council may create one or more advisory groups or boards to assist or advise the Town Council on matters related to the Town, unless otherwise prohibited by general law. The Town Council may appoint members to serve on an advisory group or board authorized by this section, subject to the requirements of general law.

"Section 5.6. **Consolidation of Functions.** Where positions are not incompatible, the Town Council may combine in one person the powers and duties of two or more officers created or authorized by this Charter.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Powers of the Town Council.** The Town Council may levy those taxes and fees authorized by general law. An affirmative vote equal to a majority of all the members of the Town Council shall be required to change the ad valorem tax rate from the rate established during the prior fiscal year.

"Section 6.2. **Commencement of Tax Collection.** From and after July 1, 2011, the citizens and property in the Town of Castle Hayne shall be subject to municipal taxes levied for the year beginning July 1, 2011, and for that purpose, the Town shall obtain from New Hanover County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2011.

"Section 6.3. **Budget.** The Town may adopt a budget ordinance for fiscal year 2011-2012 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2011-2012, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due and payable on September 1, 2011.

"ARTICLE VII. ORDINANCES.

"Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town of Castle Hayne is authorized to adopt such ordinances as the Town Council deems necessary for the governance of the Town.

"Section 7.2. **Zoning Restriction.** Notwithstanding any other provisions of this Charter or the provisions of general law, including the provisions of Article 19 of Chapter 160A of the General Statutes, any areas within the town or its extraterritorial jurisdiction which were zoned industrial by New Hanover County as of June 1, 2011, shall continue to be subject to ordinances of New Hanover County adopted under Article 18 of Chapter 153A of the General Statutes until December 31, 2016.

"ARTICLE VIII. MISCELLANEOUS.

"Section 8.1. **Conflicts of Interest.** No person, or a member of the person's immediate family, who is employed by or is an official of the Town of Castle Hayne, shall do business with the Town unless the activity is approved by the Town Council. All appointed officials of the Town shall inform the Town Council of any conflicts of interest, and the failure to so inform shall constitute grounds for immediate dismissal for cause. No official of the Town may accept any gratuity from any business, person, or other official if the gratuity is related to his or her official duties.

"Section 8.2. **Enlargement or Reduction of Town Council.** (a) The Town Council may enlarge or reduce the size of the Town Council by two offices upon an affirmative vote of three-fourths of the members of the Town Council. A vote to enlarge or reduce the size of the Town Council may be had at any time, but shall not occur more often than every two years. The Town Charter shall be amended to reflect an affirmative vote to enlarge or reduce the size of the Town Council as provided in G.S. 160A-102.

(b) The qualified voters of the Town of Castle Hayne may seek to enlarge or reduce the number of members of the Town Council by submitting a petition to that effect signed by twenty percent (20%) of the qualified voters. Upon passage of a resolution as provided in G.S. 160A-102 or upon receipt of a valid petition, the Town Council shall immediately take steps as provided in Part 4 of Article 5 of Chapter 160A of the General Statutes to determine by referendum whether the number of members of the Town Council should be increased or reduced. If a majority of the votes cast in the referendum are in the affirmative to enlarge the number of members of the Town Council, a special election shall be held at the earliest possible date to elect the additional members required to enlarge the Town Council to the number set forth in the referendum.

"Section 8.3. **Amendments to Charter.** The Town Council may propose and enact amendments to this Charter in accordance with Part 4 of Article 5 of Chapter 160A of the General Statutes. No amendment to this Charter shall become effective until public notice is given and a public hearing is held to receive comments on the proposed Charter amendment. Notwithstanding G.S. 160A-103, upon receipt of a referendum petition bearing the signatures and residence addresses of twenty percent (20%) of the qualified voters of the Town, the Town Council shall submit ordinances adopted under G.S. 160A-102 to a vote of the people.

"Section 8.4. **Provision of Services and Administration of Functions.** The Town Council may enter into agreements with other governmental bodies and private enterprises for the provision of services and the administration of corporate functions in order to provide the services and administer the functions in the most efficient and cost-effective manner.

"ARTICLE IX. SPECIAL PROVISIONS.

"Section 9.1. **Fire Protection.** The Town of Castle Hayne may contract with either or both the New Hanover County Fire Services or the Castle Hayne Volunteer Fire Department, or any other capable fire services provider, to provide fire protection for the Town. The contract terms and the amount paid by the Town of Castle Hayne to any fire services provider shall be

mutually agreed upon and annually renewed by the Town Council and the fire services provider.

"Section 9.2. **Law Enforcement.** The Town of Castle Hayne may contract with the New Hanover County Sheriff's Department, or any other capable law enforcement services provider, to provide law enforcement services for the Town. The contract terms and amount paid by the Town of Castle Hayne to the New Hanover County Sheriff's Department or any other capable law enforcement services provider shall be mutually agreed upon and annually renewed by the Town Council and the New Hanover County Board of Commissioners, or other capable law enforcement services provider.

"Section 9.3. **Zoning, Planning, and Inspections.** The Town of Castle Hayne may contract with the New Hanover County Planning, Zoning, and Inspections Department, or any other capable planning, zoning, and inspections service provider, to provide planning, zoning, and inspections services for the Town. The contract terms and amount paid by the Town of Castle Hayne to the New Hanover County Planning, Zoning, and Inspections Department, or any other capable planning, zoning, and inspections service provider, shall be mutually agreed upon and annually renewed by the Town Council and the New Hanover County Board of Commissioners, or other capable planning, zoning, and inspections service provider."

SECTION 2. The New Hanover County Board of Elections shall conduct an election on November 8, 2011, for the purpose of submission to the qualified voters for the area described in Section 2.1 of the Charter of the Town of Castle Hayne the question of whether or not the area shall be incorporated as the Town of Castle Hayne. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

SECTION 3. In the election, the question on the ballot shall be:

"[] FOR [] AGAINST

Incorporation of the Town of Castle Hayne."

SECTION 4. In the election, if a majority of the votes are cast "FOR Incorporation of the Town of Castle Hayne," Section 1 of this act shall become effective on the date that the New Hanover County Board of Elections certifies the results of the election. Otherwise, Section 1 of this act shall have no force and effect.

SECTION 5. At the same time as the election held under Section 2 of this act, the New Hanover County Board of Elections shall hold an election for the initial Town Council as provided in Articles III and IV of the proposed Charter of the Town of Castle Hayne. If the majority of votes is not cast "FOR Incorporation of the Town of Castle Hayne," the election of officers is null and void. The filing period for candidacies is the same as provided by G.S. 163-294.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of June, 2011.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives