

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-324
HOUSE BILL 773

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE VILLAGE
OF BALD HEAD ISLAND.

Whereas, Bald Head Island is suitably located in a subtropic environment and blessed with temperate climates from the Atlantic Ocean and is conducive to the maintenance of permanent and retirement residences and other buildings and structures with an emphasis on environmental controls and a planned community; and

Whereas, the Village of Bald Head Island, in company with all its residents and property owners and their representatives, is fully aware of the unique nature of Bald Head Island with its combination of structures, land, and vegetation, including the oldest standing lighthouse along the coast of the State and approximately 172 acres of publicly owned prime maritime forest, that exist in a delicate ecological balance requiring careful planning, nurture, and support, as evidenced in the development plan for the island; and

Whereas, Bald Head Island is solely situated between the waters of the State by either natural or man-made structures, necessitating a unique form of transportation unlike any other in the State; and

Whereas, the Village of Bald Head Island recognizes the inordinately large numbers of nonresident property owners and values their past contributions to the orderly and successful development of Bald Head Island; and

Whereas, while there exists no formal arrangement to continue an ongoing obligatory relationship with the nonresident property owners, the Village of Bald Head Island has long recognized such a relationship to be beneficial to all persons who have an interest in the island and the advisability of continuing to call upon nonresidents for their expertise and counsel; and

Whereas, the Village of Bald Head Island has served and will continue to serve as a model for cooperation between government and property owners and their representatives in efficient service and good planning without duplication in expenditures or unnecessary taxation; and

Whereas, Bald Head Island with its variance in seasonal population has benefited from the advantages of a municipal form of government, with the modifications and limitations as specified herein, in order to achieve its goals as a planned community; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. BALD HEAD ISLAND CHARTER

Section 1. The Charter of the Village of Bald Head Island is revised and consolidated to read as follows:

"THE CHARTER OF THE VILLAGE OF BALD HEAD ISLAND.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Village of Bald Head Island, North Carolina, in Brunswick County, and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Village of Bald Head Island', hereinafter at times referred to as the 'Village'.

"Section 1.2. **Powers.** The Village shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Village of Bald Head Island specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Boundaries.** The corporate boundaries shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Village and as they may be altered from time to time in accordance with law. An official map of the Village, showing the current municipal boundaries, shall be maintained permanently in the office of the Village Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the offices of the Secretary of State, the Brunswick County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Village Governing Body; Composition.** The Mayor and the Village Council shall be the governing body of the Village.

"Section 2.2. **Village Council; Composition; Terms of Office.** The Council shall be composed of five members to be elected by all the qualified voters of the Village for terms of four years, or until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by the Council from among its membership, to serve for a term of two years. The Mayor shall be the official head of the Village government and preside at meetings of the Council, shall have the right to vote on all matters before the Council, but shall not have the power to vote again in instances where there is an equal division on a question, and shall exercise the powers and duties conferred by law or as directed by the Council.

"Section 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or disability, in accordance with general law.

"Section 2.5. **Meetings.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting Requirements.** Official actions of the Council and all votes shall be taken in accordance with applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Qualifications for Office; Compensation; Vacancies.** The qualifications of the Mayor and Council members shall be in accordance with general law. The Mayor and Council members shall receive no compensation for their services but may be reimbursed for ordinary and necessary expenses. Vacancies shall be filled as provided in G.S. 160A-63.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Section 3.2. **Election of Council Members.** The Council members serving on the date of ratification of this Charter shall serve until the expiration of their terms or until their successors are elected and qualified. Except for the filling of vacancies as provided for in G.S. 160A-63, two Council members shall be elected at the regular municipal election in 1997 and every four years thereafter, and three Council members shall be elected at the regular municipal election in 1999 and every four years thereafter.

"Section 3.3. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The Village shall operate under the council-manager form of government, in accordance with G.S. 160A, Article 7, Part 2.

"Section 4.2. **Village Manager; Appointment; Powers and Duties.** The Council shall appoint a Village Manager who shall be responsible for the administration of all departments of the Village government. The Village Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Council, so far as authorized by general law.

"Section 4.3. **Manager's Personnel Authority; Role of Elected Officials.** As chief administrator, the Village Manager shall have the power to appoint, suspend, and remove all officers, department heads, and employees in the administrative service of the Village, with the exception of the Village Attorney, the Village Clerk, and any other official whose appointment or removal is specifically vested in the Council by this Charter or by general law. Neither the Council nor any of its members shall take part in the appointment or removal of officers and employees in the administrative service of the Village, except as provided by this Charter. Except for the purpose of inquiry, or for consultation with the Village Attorney, the Council and its members shall deal with the administrative service solely through the Village Manager, Acting Manager, or Interim Manager, and neither the Council nor any of its members shall give any specific orders to any subordinates of the Village Manager, Acting Manager, or Interim Manager, either publicly or privately.

"Section 4.4. **Village Attorney.** The Village Council shall appoint a Village Attorney licensed to practice law in North Carolina. It shall be the duty of the Village

Attorney to represent the Village, advise Village officials, and perform other duties required by law or as the Council may direct.

"Section 4.5. **Village Clerk.** The Village Council shall appoint a Village Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Council may direct.

"Section 4.6. **Tax Collector.** The Village shall have a Tax Collector to collect all taxes owed to the Village, subject to general law, this Charter, and Village ordinances and to perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Village Manager. Notwithstanding the provisions of G.S. 105-349, the Village Manager is authorized to appoint and remove the Tax Collector and any deputy tax collectors.

"Section 4.7. **Finance Director.** The Village Manager shall appoint a Finance Officer to perform the duties designated in G.S. 159-25 and such other duties as may be prescribed by law or as the Council may direct, or the Village Council may, at its election, confer the duties of Finance Officer on the Village Manager as Budget Officer. The Finance Officer may be entitled 'Accountant', 'Treasurer', 'Finance Director', 'Finance Officer', or any other reasonably descriptive title.

"Section 4.8. **Other Administrative Officers and Employees.** The Council may authorize other positions to be filled by appointment by the Village Manager and may organize the Village government as deemed appropriate, subject to the requirements of general law.

"ARTICLE V. FINANCE AND TAXATION.

"Section 5.1. **Room Occupancy and Tourism Development Tax.** The authority of the Village to levy a room occupancy and tourism tax shall continue as authorized by Chapter 664 of the 1991 Session Laws, and any subsequent acts.

"ARTICLE VI. CONTRACT POST OFFICE.

"Section 6.1. **Contract Post Office.** The authority of the Village to operate a contract post office shall continue as authorized by Chapter 16 of the 1991 Session Laws, as amended by Chapter 350 of the 1991 Session Laws, and any subsequent acts.

"ARTICLE VII. NO-WAKE SPEED ZONE.

"Section 7.1. **'No-Wake' Speed Zone.** The 'no-wake' speed zone established by Chapter 688 of the 1987 Session Laws, and any subsequent acts, shall continue as authorized.

"ARTICLE VIII. MISCELLANEOUS.

"Section 8.1. **Motorboat Operation.** The Village may regulate the speed and operation of motorboats within the Village jurisdiction to preserve the tranquillity and environment of the Village.

"Section 8.2. **Sand Dunes.** The Village may construct, reconstruct, plant, and maintain sand dunes and regulate access to and across dunes to prevent or repair damage to dunes so as to provide protection against erosion or overwash.

"Section 8.3. **Beach Regulation.** The Village may, by ordinance, establish standards of dress, conduct, and decorum on the beaches of Bald Head Island and may otherwise regulate the use of those beaches within the Village jurisdiction.

"ARTICLE IX. PHASED DEVELOPMENT PLAN.

"Section 9.1. **Phased Development Plan.** In accordance with an act to incorporate the Village of Bald Head Island, Chapter 156 of the 1985 Session Laws, the Village Council was required to adopt by ordinance plans of development consistent with the historical land-use patterns and densities in existence on Bald Head Island at the time of ratification of the act. The Village Council, after public hearing and upon recommendation of its Planning Board, adopted a zoning ordinance for the undeveloped portions of Bald Head Island consistent with those historical land-use patterns and densities. Such zoning ordinance is based upon a 'Phased Development Plan' (as that term is defined in G.S. 160A-385.1(b)(3)), which plan was prepared by Bald Head Island Limited.

"Section 9.2. **Vested Rights.** The owners of the undeveloped portions of Bald Head Island are declared hereby to have acquired vested rights in accordance with G.S. 160A-385.1 as to the 'Phased Development Plan' entitled 'Revised June 29, 1995 STAGE 2 MASTER PLAN BALD HEAD ISLAND NORTH CAROLINA BALD HEAD ISLAND PLANNING DEPARTMENT' and approved by the State Division of Coastal Management on August 7, 1995. Notwithstanding the provisions of G.S. 160A-385.1(d), these vested rights shall be valid through December 31, 1999, and no longer. Nothing in this section shall be construed to prohibit the further granting of vested rights by the Village pursuant to the provisions of G.S. 160A-385.1.

"Section 9.3. **Alteration of Vested Rights.** As specifically authorized by G.S. 160A-385.1(e)(1)a., the vested rights herein granted may only be changed, prior to December 31, 1999, as allowed by the exceptions set forth in G.S. 160A-385.1(e). In addition, subject to the approval of the Village and within the limits established by the Village zoning and other land-use ordinances, vested densities may be transferred within the area depicted on the Stage 2 Master Plan referred to in Section 9.2 of this Charter so long as the density of development within the total area is not increased.

"Section 9.4. **Land-Use Regulation.** Except as herein expressly provided, nothing in this Charter shall be construed to prohibit the Village from amending its current land-use regulatory ordinances, in whole or in part, or otherwise regulating the use of land within the planning and zoning jurisdiction of the Village.

"ARTICLE X. MOTOR VEHICLE REGULATION.

"Section 10.1. **Motor Vehicle Regulation.** The Village may by ordinance exempt from the provisions of Articles 3, 3A, 11, and 13 of Chapter 20 of the General Statutes, in whole or in part, the registration, licensing, regulation, inspection, or equipping of motor vehicles and may regulate the use, operation, possession, and ownership of motor vehicles within the jurisdiction of the Village of Bald Head Island. Additionally, notwithstanding the provisions of Chapter 20 of the General Statutes or any other statute, and in addition to those powers now or hereafter conferred by law, the Village

shall have the authority to regulate motor vehicles and other means of transportation within the jurisdiction of the Village, including the following:

(1) Regulation of the use and operation of all vehicles, as defined in G.S. 20-4.01(49).

(2) Regulation of all electrically powered vehicles or vehicles powered by fossil fuel or internal combustion engines.

(3) Regulation of the size, weight, lighting, safety standards, and engine or motor size or power characteristics of all vehicles or other means of transportation within the jurisdiction of the Village.

"Section 10.2. **Street Regulation.** In order to establish and preserve the unique character and aesthetics of Bald Head Island, the Village may adopt, by ordinance, such standards for the establishment and maintenance of streets and roads within the jurisdiction of the Village as it deems appropriate. The streets and roads within the jurisdiction of the Village shall not be under the authority of the Department of Transportation. The provisions of Articles 2 and 2A of Chapter 136 of the General Statutes shall not apply within the jurisdiction of the Village. The Village shall be exempt from the provisions of G.S. 136-66.2.

"ARTICLE XI. SEA TURTLE SANCTUARY.

"Section 11.1. **Sea Turtle Sanctuary.** The Village of Bald Head Island may create and establish a sea turtle sanctuary within the areas of the Village limits above the mean low watermark, to include the foreshore. Any ordinances adopted by the Village to regulate activities within the sea turtle sanctuary that may or will disturb or destroy a sea turtle, a sea turtle nest, or sea turtle eggs, must be consistent with the ordinance powers found in G.S. 160A-174, G.S. 160A-308, and any other law. The ordinances adopted by the Village may by cross-reference incorporate the criminal statutes regarding the taking of sea turtles in G.S. 113-189 and G.S. 113-337. It shall be unlawful for any person within the sea turtle sanctuary to disturb or destroy a sea turtle, a sea turtle nest, or sea turtle eggs in violation of an ordinance adopted by the Village of Bald Head Island."

Section 2. The purpose of Part I of this act is to revise the Charter of the Village of Bald Head Island and to consolidate certain acts concerning the property, affairs, and government of the Village. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into Part I of this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Section 4. The provisions of Chapter 156 of the 1985 Session Laws, except for the provisions of Section 4-3(f), (g), and (h), having served the purposes for which they were enacted or having been consolidated into Part I of this act, are expressly repealed. The provisions of Section 4-3f., g., and h. of Chapter 156 of the 1985 Session Laws are expressly not repealed and shall continue as authorized.

Section 5. The Mayor and Council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their

successors are elected and qualified. Thereafter those offices shall be filled as provided in Articles II and III of Section 1 of this Charter.

Section 6. Part I of this act does not affect any rights or interests which arose under any provisions repealed by Part I of this act.

Section 7. All existing ordinances, resolutions, and other provisions of the Village of Bald Head Island not inconsistent with the provisions of Part I of this act shall continue in effect until repealed or amended.

Section 8. No action or proceeding pending on the effective date of this act by or against the Village or any of its departments or agencies shall be abated or otherwise affected by this act.

Section 9. Whenever a reference is made in Part I of this act to a particular provision of the general statutes, and that provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended general statute or to the general statute that most clearly corresponds to the statutory provision that is superseded or recodified.

Section 10. The Brunswick County Board of Elections shall establish a special candidate filing period for the 1997 municipal election for the Village of Bald Head Island.

Section 11. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of July, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives