

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-257
SENATE BILL 570**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF INDIAN TRAIL.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Indian Trail is revised and consolidated to read:

"CHARTER OF THE TOWN OF INDIAN TRAIL.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and General Powers.** The Town of Indian Trail shall continue to be a body politic and corporate under the name and style of "Town of Indian Trail" and shall continue to be vested with all property and rights which now belong to the Town; 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 Council and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Section 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 Trail shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina.

"Section 1.4. **Form of Government.** The form of government of the Town of Indian Trail shall be known as the "Council-Manager Form of Government," as set forth in Part 2 of Article 7 of Chapter 160A of the General Statutes subject to the modifications of this Charter. Nothing contained in this Charter shall be construed to prevent the form of government of the Town of Indian Trail from being changed as by law provided.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Existing Corporate Boundaries.** The corporate boundaries of the Town of Indian Trail shall be those existing at the time of the ratification of this Charter and as the same may be altered from time to time in accordance with law. The Town Planning Director shall prepare a map to be designated "Map of the Town of Indian Trail Limits" showing the corporate limits as the same may exist as of the effective date of this Charter. The Town Planning Director may also prepare a written description of the corporate limits as shown on said map to be designated "Description of the Town of Indian Trail Corporate Limits." Said map and description shall be retained permanently in the Office of the Town Clerk as the official map and description of the corporate limits of the Town. Immediately upon alteration of the corporate limits made pursuant to law from time to time, the Town Planning Director shall indicate such alteration by making appropriate changes and/or additions to said official map and description. Photographic or other types of copies of said official map or description certified as by law provided for the certification of ordinances shall be admitted in evidence in all courts and shall have the same force and effect as would the official map or description.



"Section 2.2. **Extension of Corporate Boundaries.** All extensions of the corporate boundaries shall be governed by general law.

"ARTICLE III. MAYOR AND TOWN COUNCIL.

"Section 3.1. **Government Duties.** The government of the Town and the general management and control of all its affairs shall be vested in a Mayor and Town Council, which shall be elected and shall exercise its powers in the manner hereinafter provided, except that the Town Manager shall have the authority hereinafter specified.

"Section 3.2. **Mayor and Mayor Pro Tempore.** The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Town 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 own 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 ordinance of the Town. The Town Council shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of 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.

"Section 3.3. **Town Council.** The Town Council shall consist of five members elected in the manner provided in Article IV of this Charter.

"Section 3.4. **Terms; Qualifications; Vacancies.**

(a) Beginning with the regular election in 1971, the Mayor and the members of the Town Council shall serve for terms of four 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 qualify.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Town Council or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) If any elected Mayor or Councilman shall refuse to qualify, or if there shall be a vacancy in the office of Mayor or Councilman, after election and qualification, the vacancy shall be filled pursuant to the General Statutes. Any Mayor or Councilman so appointed shall have the same authority and powers as if regularly elected.

"Section 3.5. **Compensation of Mayor and Councilmen.** The Mayor shall receive for his services such salary as the Town Council shall determine, but no reduction in his salary shall be made to take effect during the term in which it is voted. The Council may establish a salary for its members that may be increased or reduced, but no reduction shall be made to take effect as to any Councilman during the respective term of office that he is serving at the time the reduction is voted.

"Section 3.6. **Organization of Council; Oaths of Office.** The Town Council shall meet and organize for the transaction of business at a time established by ordinance, following each biennial election and prior to December 15. Before entering upon their offices, the Mayor and each Councilman shall take, subscribe, and have entered upon the minutes of the Council 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."

"Section 3.7. **Meetings of Council.** The Town Council shall fix suitable times for its regular meetings, which shall be held at least once monthly. Special and emergency meetings may be held as provided by the Rules of Procedure for the Town Council of Indian Trail.

"Section 3.8. **Quorum; Votes.**

(a) A majority of the members elected to the Town Council shall constitute a quorum for the conduct of business, but a lesser number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) Except as otherwise provided by the General Statutes, the affirmative vote of a majority of the members of the Town Council shall be necessary to adopt any ordinance or any resolution or motion having the effect of an ordinance. Except as otherwise provided by the General Statutes, all other matters to be voted upon shall be decided by a majority vote of those present and voting.

"Section 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 ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Council. The enacting clauses of all ordinances shall be: "Be it ordained by the Town Council of the Town of Indian Trail." All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"Section 3.10. **Appointments by Council.** The Town Council shall appoint a Town Manager and a Town Attorney, who shall hold office at the pleasure of the Council and receive such compensation as the Council may provide.

"Section 3.11. **Powers of Town Manager.**

(a) The Town Council shall appoint a Town Manager, who shall be the administrative head of the Town government and shall be responsible for the administration of all departments. The Manager shall be appointed with regard to executive and administrative abilities only. The Manager shall hold office at the pleasure of the Town Council and shall receive such compensation as determined by the Town Council. Neither the Mayor nor the Town Council nor any of its committees or members shall take part in the appointment or removal of officers, department heads, and employees in the administrative service of the Town, except as provided by this Charter.

(b) The Town Manager shall:

- (1) Be the administrative head of the Town government.
- (2) See that within the Town the laws of the State and the ordinances, resolutions, and regulations of the Council are faithfully executed.
- (3) Attend all meetings of the Town Council and recommend items for adoption as he shall deem expedient.
- (4) Make reports to the Town Council from time to time upon the affairs of the Town and keep the Town Council fully advised of the Town's financial condition and its future financial needs.
- (5) Appoint, suspend, and remove all nonelected officers, department heads, and employees of the Town, except the Town Attorney, who shall be appointed and serve at the pleasure of the Town Council.

"Section 3.12. **Town Attorney.** The 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, be present at all meetings of the Town Council, and perform other duties as required by law or as the Council may prescribe. The Town Attorney shall serve at the pleasure of the Council and shall receive compensation as the Council shall determine.

"Section 3.13. **Town Clerk.** The Town Manager shall appoint a Town Clerk who shall be the Clerk to the Town Council, keep all records concerning Council actions, exercise those powers and duties conferred by law, and perform such duties as may be specified by the Council. The Clerk will be appointed with regard to merit only.

"Section 3.14. **Finance Officer.** The Town Manager shall appoint a Finance Officer to perform the duties as required by the General Statutes.

"Section 3.15. **Tax Collector.** The Town Manager shall appoint a Tax Collector to collect all taxes, licenses, fees, and other monies 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 foreclosures of taxes by municipalities. Notwithstanding the contrary provisions of G.S. 105-349, the Town Manager may appoint the Tax Collector and one or more deputies.

"Section 3.16. **Consolidation of Functions.** The Town Manager may, in his discretion, consolidate the functions of any two or more of the positions of Town Clerk, Town Tax Collector, and Town Finance Officer, 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 Manager may also, in his 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.

"Section 3.17. **Other Administrative Officers and Employees.** The Town Council may authorize other positions to be filled by appointment by the Town Manager and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"ARTICLE IV. ELECTION PROCEDURE.

"Section 4.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the laws of North Carolina. In the regular 1973 election and quadrennially thereafter, there shall be elected by the qualified voters of the Town voting at large two Councilmen to serve for terms of four years. In the regular 1975 election and quadrennially thereafter, there shall be elected by the qualified voters of the Town voting at large a Mayor and three Councilmen to serve for terms of four years. In case of a tie between opposing candidates, the election shall be determined pursuant to general law.

"Section 4.2. **Voting.** In the regular 1973 election and quadrennially thereafter, each voter shall be entitled to vote for two candidates for Councilman. In the regular 1975 election and quadrennially thereafter, each voter shall be entitled to vote for one candidate for Mayor and for three candidates for Councilman.

"Section 4.3. **Regulation of Elections.** The method of election of the Mayor and Town Council shall be the plurality method to be conducted as provided in G.S. 163-292."

SECTION 2. The purpose of this act is to revise the Charter of the Town of Indian Trail and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

SECTION 3. This act shall not be deemed to repeal, modify, nor in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

- (1) Any acts concerning the property, affairs, or government of public schools in the Town of Indian Trail.
- (2) Any acts of validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

SECTION 4. The following acts or portions of acts, having served their purposes for which enacted, or having been consolidated into this act, are hereby repealed:

- (1) Chapter 825, Session Laws of 1969.
- (2) S.L. 2004-9.

SECTION 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests whether public or private:

- (1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.
- (2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

SECTION 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

- (1) The repeal herein of any act repealing such law, or
- (2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 7. All existing ordinances and resolutions of the Town of Indian Trail, and all existing rules or regulations of departments or agencies of the Town of Indian Trail, not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

SECTION 8. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Indian Trail or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

SECTION 9. The Mayor and Town 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.

SECTION 10. If any provision of this act or the application thereof to any person or circumstances is held invalid, 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.

SECTION 11. All laws and clauses of laws in conflict with this act are hereby repealed.

SECTION 12. Whenever a reference is made in this act to a particular provision of the General Statutes, and such 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 which most clearly corresponds to the statutory provision which is superseded or recodified.

SECTION 13. All personal pronouns used in this document, whether used in the masculine, feminine, or neuter gender, shall include all other genders. The singular shall include the plural and vice versa.

SECTION 14. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives