

Summary of Municipal Incorporation Procedure in North Carolina

I. Joint Legislative Commission on Municipal Incorporations.

The Joint Legislative Commission on Municipal Incorporations (Commission) was created by the North Carolina General Assembly in 1986 (Article 20 of Chapter 120 of the General Statutes). The Commission consists of six members; two Senators appointed by the President Pro Tempore of the Senate, two House members appointed by the Speaker of the House of Representatives; one city manager or elected city official appointed by the President Pro Tempore of the Senate, and one county commissioner or county manager appointed by the Speaker of the House of Representatives. The members of the Commission are appointed for two-year terms, but may be reappointed by the appointing authority (Senate or House).

Members of the Commission who are members of the General Assembly receive no monetary compensation, but do receive subsistence and travel allowances as provided in G.S. 120-3.1; other members receive per diem, subsistence, and travel allowances as provided in G.S. 138-5. The Commission may meet in either the Legislative Building or the Legislative Office Building. Staff for the Commission includes at least one attorney from the Bill Drafting Division of the General Assembly and a Committee Assistant, who is responsible for maintaining records and recording minutes. The Commission contracts with the Department of Commerce, Division of Community Assistance, to prepare studies required by law and to perform other services necessary for the review of petitions.

The legislation creating the Commission does not require the Commission to first consider a petition to incorporate before a bill to incorporate can be considered by the House of Representatives or the Senate. However, in past years, both the House and Senate have adopted rules providing that a bill to incorporate will not be considered in committee or on the House or Senate floor unless the bill is accompanied by a recommendation from the Commission. The rules have not required a positive recommendation prior to consideration or debate.

II. Procedure for Incorporation Review.

A. Petition (G.S. 120-163).

A petition to incorporate must be submitted to the Commission at least 60 days prior to convening of the next regular session of the General Assembly, and shall contain the following:

1. A petition signed by fifteen percent (15%) of the registered voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area. The signature petition must be verified by the county board of elections.

2. A proposed name for the city; a map of the city; a list of proposed services to be provided (at least 4 of 8 authorized by law); the names of three persons to serve as the interim governing board; a proposed charter; a statement of the estimated population; assessed valuation; degree of development; population density; and recommendations as to the form of government and manner of election.
3. A statement that the proposed city will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar (\$100.00) valuation upon all taxable property within city limits.
4. The petition must contain a statement that the proposed municipality will offer four of the following services no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing police protection, the proposed city must propose either to provide police service or to have services provided by contract with a county or another city that proposes that the other government be compensated for providing supplemental protection.

B. Notification (G.S. 120-164).

1. Not later than 5 days before submitting the petition to the Commission, the petitioners shall inform the following parties of their intended submission:
 - a. The board of county commissioners of the county where the area is located.
 - b. All cities within that county.
 - c. All cities in any other county that are within five miles of the proposed city.
2. The petitioners shall also publish notice of intent to submit a petition to the Commission in a newspaper of general circulation in the area proposed to be incorporated at least once per week for two consecutive weeks.

C. Initial Inquiry (G.S. 120-165).

Upon receipt of the petition, the Commission will determine if the petitioners have met the requirements of G.S. 120-163 and 120-164. If the petitioners have met the requirements, the Commission will conduct further study as provided by Article 20 of Chapter 120 of the General Statutes (as discussed below). If the requirements have not been met, the Commission will return the petition to the petitioners, and the petitioners may take the necessary steps to correct any deficiencies.

D. Nearness to another municipality (G.S. 120-166).

1. If the petitioners have met the requirements of G.S. 120-163 and -164, the Commission will authorize a Phase I study, which will determine how close the proposed city is to existing cities
2. If the proposed city is within 1 mile of a city with a population of 5,000-9,999 people; three miles of a city of 10,000-24,999; four miles of 25,000-49,999; or five miles of 50,000 or over, the Commission may not make a positive recommendation for the incorporation of the proposed city unless the proposed city can show that one of the exceptions in G.S. 120-166(b) applies.
3. The most common exception to apply is G.S. 120-166(b)(3) – any cities within the distances proscribed in G.S. 120-166(a) must adopt a resolution expressly approving incorporation of the proposed city. It is insufficient for the resolution to state that the municipality's governing body is neutral about incorporation or does not oppose incorporation; it must expressly approve incorporation.

E. Population/Population Density (G.S. 120-167).

The proposed city must have a permanent population of at least 100 persons, and a population density (either permanent or seasonal) of at 250 persons per square mile.

F. Development (G.S. 120-168).

At least forty percent (40%) of the proposed city must be developed for residential, commercial, industrial, institutional, or governmental uses, or is dedicated as open space under the provisions of a zoning ordinance, subdivision ordinance, conditional or special use permit, or recorded restrictive covenants.

G. Area unincorporated (G.S. 120-169).

No part of the proposed city can be included within the boundary of an incorporated municipality, or within the boundary of a unified government (a county that operates like a city because it meets certain criteria) as defined in Article 24 of Chapter 153A of the General Statutes.

H. Level of services; financial impact on other local governments (G.S. 120-169.1).

1. The proposed city must submit a plan for providing a reasonable level of municipal services. This means the proposed city must consider how it will provide the required four services, and must submit to the Commission letters or agreement between the proposed city and other entities with whom the proposed city may contract (e.g. the Sheriff's Office if it will be providing police protection to the proposed city).

2. The Commission will consider the financial impact on the county and other cities if the proposed city is incorporated (e.g. the redistribution of sales tax revenue).

I. Findings as to services (G.S. 120-170).

The proposed city must show that it can provide at a reasonable tax rate the four services listed in its petition, and that it can provide at a reasonable tax rate the types of services usually provided by similar municipalities. In evaluating this criteria, the Commission will carefully examine the proposed city's budget to determine whether the proposed city will have enough financial resources to pay the costs associated with providing the required four services. The Commission will also look at the tax rate of other municipalities and the level of services they provide to determine whether the proposed city's tax rate is reasonable.

J. Procedures if findings made (G.S. 120-171).

The Commission may make a positive recommendation to the full General Assembly for the incorporation of the proposed city if all the requirements of G.S. 120-163 through -170 have been met. If the requirements have not been met, the Commission may not make a positive recommendation. The final decision of whether to incorporate an area is made by the General Assembly after a bill to incorporate has been introduced by one or more legislators who represent the area.

K. Other matters to be considered.

1. During the review of a petition, the Commission, through legal staff or the Department of Commerce, Division of Community Assistance, will notify the petitioners of deficiencies in their petition. Petitioners may (with assistance from Commission staff - if desired) take steps to correct the deficiencies, and resubmit the material to the Commission.
2. Generally, it takes several months for the Commission to review a petition and make a recommendation. The time period may be longer if the petitioners fail to provide all of the required information when the petition is submitted or the information is incomplete or inaccurate.
3. Although not required, it is advisable for petitioners to discuss the incorporation petition with their legislative representatives prior to submitting it to the Commission. Petitioners should explain to their representatives the steps they've taken to gain community support, the contents of the petition, and any other relevant matters.
4. This material is a summary of the municipal incorporation procedure in North Carolina. For a complete review, please read Article 20 of Chapter 120 of the North Carolina General Statutes.

Article 20.

Joint Legislative Commission on Municipal Incorporations.

Part 1. Organization.

§ 120-158. Creation of Commission.

(a) There is created the Joint Legislative Commission on Municipal Incorporations, referred to in this Article as "Commission".

(b) The Commission shall consist of six members, appointed as follows:

- (1) Two Senators appointed by the President Pro Tempore of the Senate;
- (2) Two House members appointed by the Speaker;
- (3) One city manager or elected city official, appointed by the President Pro Tempore of the Senate from a list of three eligible persons nominated by the North Carolina League of Municipalities; and
- (4) One county commissioner or county manager, appointed by the Speaker from a list of three eligible persons nominated by the North Carolina Association of County Commissioners. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1991, c. 739, s. 17.)

§ 120-159. Terms.

Members shall be appointed for terms ending June 30, 1987, and subsequently for two-year terms beginning July 1, 1987, and biennially thereafter. A member eligible when appointed may continue for the remainder of the term regardless of the member's continued eligibility for the category. The Commission shall elect a chairman from its membership for a one-year term. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-160. Compensation.

Members of the Commission who are members of the General Assembly shall receive subsistence and travel allowances as provided by G.S. 120-3.1. Members who are State officers or employees shall receive subsistence and travel allowances as provided by G.S. 138-6. All other members shall receive per diem, subsistence, and travel allowances as provided by G.S. 138-5. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-161. Facilities and staff.

The Commission may meet in the Legislative Building or the Legislative Office Building. Staff for the Commission shall be provided by the Legislative Services Commission. The Commission may contract with the Institute of Government, the Local Government Commission, the Department of Environment and Natural Resources, or other agencies as may be necessary in completing any required studies, within the funds appropriated to the Commission. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1989, c. 727, s. 218(82); 1997-443, s. 11A.119(a).)

§ 120-162. Reserved for future codification purposes.

Part 2. Procedure for Incorporation Review.

§ 120-163. Petition.

(a) The process of seeking the recommendation of the Commission is commenced by filing with the Commission a petition signed by fifteen percent (15%) of the registered voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area, asking for incorporation. The voter shall sign the petition and also clearly print that voter's name adjacent to the signature. The petition must also contain the voter's residence address and date of birth.

(b) The petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt. That period of 15 working days shall be tolled for any period of time that is also either two weeks before or one week after a primary or election being conducted by the county board of elections.

(c) The petition must include a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The petition must contain a statement that the proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar (\$100.00) valuation upon all taxable property within its corporate limits. The petition must contain a statement that the proposed municipality will offer four of the following services no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing police protection, the proposed municipality must propose either to provide police service or to have services provided by contract with a county or another municipality that proposes that the other government be compensated for providing supplemental protection. The proposed municipality may not contain any noncontiguous areas.

(d) The petitioners must present to the Commission the verified petition from the county board of elections.

(e) A petition must be submitted to the Commission at least 60 days prior to convening of the next regular session of the General Assembly in order for

the Commission to make a recommendation to that session. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 1; 2001-353, s. 6.)

§ 120-164. Notification.

(a) Not later than five days before submitting the petition to the Commission, the petitioners shall notify:

- (1) The board or boards of county commissioners of the county or counties where the proposed municipality is located;
- (2) All cities within that county or counties; and
- (3) All cities in any other county that are within five miles of the proposed municipality of the intent to present the petition to the Commission.

(b) The petitioners shall also publish, one per week for two consecutive weeks, with the second publication no later than seven days before submitting the petition to the Commission, notice in a newspaper of general circulation in the area proposed to be incorporated of the intent to present the petition to the Commission. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-165. Initial inquiry.

(a) The Commission shall, upon receipt of the petition, determine if the requirements of G.S. 120-163 and G.S. 120-164 have been met. If it determines that those requirements have not been met, it shall return the petition to the petitioners. The Commission shall also publish in the North Carolina Register notice that it has received the petition.

(b) If it determines that those requirements have been met, it shall conduct further inquiry as provided by this Part. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-166. Additional criteria; nearness to another municipality.

(a) The Commission may not make a positive recommendation if the proposed municipality is located within one mile of a municipality of 5,000 to 9,999, within three miles of a municipality of 10,000 to 24,999, within four miles of a municipality of 25,000 to 49,999, or within five miles of a municipality of 50,000 or over, according to the most recent decennial federal census, or according to the most recent annual estimate of the Office of State Budget and Management if the municipality was incorporated since the return of that census. For purposes of this section, "municipality" means a city as defined by G.S. 160A-1(2) or a county that has exercised its authority under Article 24 of Chapter 153A of the General Statutes.

(b) Subsection (a) of this section does not apply in the case of proximity to a specific municipality if:

- (1) The proposed municipality is entirely on an island that the nearby city is not on;
- (2) The proposed municipality is separated by a major river or other natural barrier from the nearby city, such that provision of municipal services by the nearby city to the proposed

- municipality is infeasible or the cost is prohibitive, and the Commission shall adopt policies to implement this subdivision;
- (3) The municipalities within the distances described in subsection (a) of this section by resolution express their approval of the incorporation; or
 - (4) An area of at least fifty percent (50%) of the proposed municipality has petitioned for annexation to the nearby city under G.S. 160A-31 within the previous 12 months before the incorporation petition is submitted to the Commission but the annexation petition was not approved. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1989 (Reg. Sess., 1990), c. 1024, s. 25; 1998-150, s. 2; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2005-35, s. 2.)

§ 120-167. Additional criteria; population.

The Commission may not make a positive recommendation unless the proposed municipality has a permanent population of at least 100 and a population density (either permanent or seasonal) of at least 250 persons per square mile. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 2.)

§ 120-168. Additional criteria; development.

The Commission may not make a positive recommendation unless forty percent (40%) of the area is developed for residential, commercial, industrial, institutional, or governmental uses, or is dedicated as open space under the provisions of a zoning ordinance, subdivision ordinance, conditional or special use permit, or recorded restrictive covenants. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 3.)

§ 120-169. Additional criteria; area unincorporated.

The Commission may not make a positive recommendation if any of the proposed municipality is included within the boundary of another incorporated municipality, as defined by G.S. 153A-1(1), or if any of the proposed municipality is included within the boundary of a county that has exercised its authority under Article 24 of Chapter 153A of the General Statutes. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 2005-35, s. 3.)

§ 120-169.1. Additional criteria; level of development, services; financial impact on other local governments.

- (a) Repealed by Session Laws 1999-458, s. 4.
- (b) Services. – The Commission may not make a positive recommendation unless the area to be incorporated submits a plan for providing a reasonable level of municipal services. This plan shall be based on the proposed services stated in the petition under G.S. 120-163(c).
- (c) The Commission in its report shall indicate the impact on other municipalities and counties of diversion of already levied local taxes or State-shared revenues from existing local governments to support services in the proposed municipality. (1998-150, s. 3; 1999-458, s. 4.)

§ 120-170. Findings as to services.

The Commission may not make a positive recommendation unless it finds that the proposed municipality can provide at a reasonable tax rate the services requested by the petition, and finds that the proposed municipality can provide at a reasonable tax rate the types of services usually provided by similar municipalities. In making findings under this section, the Commission shall take into account municipal services already being provided. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-171. Procedures if findings made.

(a) If the Commission finds that it may not make a positive recommendation because of the provisions of G.S. 120-166 through G.S. 120-170, it shall make a negative recommendation to the General Assembly. The report to the General Assembly shall list the grounds on which a negative recommendation is made, along with specific findings. If a negative recommendation is made, the Commission shall notify the petitioners of the need for a legally sufficient description of the proposed municipality if the proposal is to be considered by the General Assembly. At the request of a majority of the members of the interim board named in the petition, the Commission may conduct a public hearing and forward any comments or findings made as a result of that hearing along with the negative recommendation.

(b) If the Commission determines that it will not be barred from making a positive recommendation by G.S. 120-166 through G.S. 120-170, it shall require that petitioners have a legally sufficient description of the proposed municipality prepared at their expense as a condition of a positive recommendation.

(c) If the Commission determines that it is not barred from making a positive recommendation, it shall make a positive recommendation to the General Assembly for incorporation.

(d) The report of the Commission on a petition shall be in a form determined by the Commission to be useful to the General Assembly. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-172. Referendum.

Based on information received at the public hearing, the Commission may recommend that any incorporation act passed by the General Assembly shall be submitted to a referendum, except if the petition contained the signatures of fifty percent (50%) of registered voters the Commission shall not recommend a referendum. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-173. Modification of petition.

With the agreement of the majority of the persons designated by the petition as an interim governing board, the Commission may submit to the General Assembly recommendations based on deletion of areas from the petition, as long as there are no noncontiguous areas. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-174. Deadline for recommendations.

If the petition is timely received under G.S. 120-163(e), the Commission shall make its recommendation to the General Assembly no later than 60 days after convening of the next regular session after submission of the petition. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§§ 120-175 through 120-179. Reserved for future codification purposes.

Charter Checklist

Every petition to incorporate must contain a charter for the proposed city. Below are some items that should be considered when drafting a charter. Words or phrases that appear in bold indicate styles or methods that are the most common form for small towns, although larger towns may use them as well. Comments appear in italics.

(1) Name: The name of the city may be changed to any name not deceptively similar to that of another city in this State.

(2) Style: The city may be styled a city, **town**, or village.
There is no legal difference between the three.

(3) Style of the governing board: The governing board may be styled the board of commissioners, the board of aldermen, or the **council**.
There is no legal difference between the three.

(4) Terms of office of members of the council: Members of the council shall serve terms of office of either two or **four** years. All of the terms don't have to be the same length, and **all of the terms don't have to expire in the same year**.
Four year-staggered term is the most common.

(5) Number of members of the council: The council may consist of any number of members not less than three or more than 12.
Four or five is the most common.

(6) Mode of election of the council:

a. All candidates shall be nominated and elected by all the qualified voters of the city.

b. The city shall be divided into single-member electoral districts; council members shall be apportioned to the districts so that each member represents the same number of persons as nearly as possible, except for members apportioned to the city at large, if any; the qualified voters of each district shall nominate and elect candidates who reside in the district for seats apportioned to that district; and all the qualified voters of the city shall nominate and elect candidates apportioned to the city at large, if any.

c. The city shall be divided into single-member electoral districts; council members shall be apportioned to the districts so that each member represents the same number of persons as nearly as possible, except for members apportioned to the city at large; and candidates shall reside in and represent the districts according to the apportionment plan adopted, but all candidates shall be nominated and elected by all the qualified voters of the city.

d. The city shall be divided into electoral districts equal in number to one half the number of council seats; the council seats shall be divided equally into "ward seats" and "at-large seats," one each of which shall be apportioned to each district, so that each council member represents the same number of persons as nearly as possible; the qualified voters of each district shall nominate and elect candidates to the "ward

seats"; candidates for the "at-large seats" shall reside in and represent the districts according to the apportionment plan adopted, but all candidates for "at-large" seats shall be nominated and elected by all the qualified voters of the city.

e. The city shall be divided into single-member electoral districts; council members shall be apportioned to the districts so that each member represents the same number of persons as nearly as possible, except for members apportioned to the city at large, if any; in nonpartisan primary, the qualified voters of each district shall nominate two candidates to reside in the district, and the qualified voters of the entire city shall nominate two candidates for each seat apportioned to the city at large, if any; and all candidates shall be elected by all the qualified voters of the city.

If either option b, c, d or e is adopted, the council shall divide the city into the requisite number of single-member electoral districts according to the apportionment plan adopted, and shall cause a map of the districts so laid out to be drawn up and filed as provided by G.S. 160A-22 and G.S. 160A-23. No more than one half of the council may be apportioned to the city at large. An initiative petition may specify the number of single-member electoral districts to be laid out, but the drawing of district boundaries and apportionment of members to the districts shall be done in all cases by the council.

(7) Elections:

a. Partisan. – Municipal primaries and elections shall be conducted on a partisan basis as provided in G.S. 163-291.

b. Nonpartisan Plurality. – Municipal elections shall be conducted as provided in G.S. 163-292.

c. Nonpartisan Election and Runoff Election. – Municipal elections and runoff elections shall be conducted as provided in G.S. 163-293.

d. Nonpartisan Primary and Election. – Municipal primaries and elections shall be conducted as provided in G.S. 163-294.

(8) Selection of Mayor:

a. **The mayor shall be elected by all the qualified voters of the city** for a term of not less than **two years** and not more than four years.

b. The mayor shall be selected by the council from among its membership to serve at its pleasure.

Under option a, the mayor may be given the right to vote on all matters before the council, or he may be **limited to voting only to break a tie**. Under option b, the mayor has the right to vote on all matters before the council. In both cases the mayor has no right to break a tie vote in which he participated.

(9) Form of government:

a. The city shall operate under the mayor-council form of government in accordance with Part 3 of Article 7 of Chapter 160A of the General Statutes.

b. The city shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes, and any charter provisions not in conflict therewith.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

SESSION LAW 2001-394
HOUSE BILL 882

AN ACT TO INCORPORATE THE TOWN OF DUCK, AND TO MODIFY THE
FORMULA FOR DISTRIBUTING THE PROCEEDS OF THE LOCAL
OCCUPANCY TAX AND LOCAL LAND TRANSFER TAX.

The General Assembly of North Carolina enacts:

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

"CHARTER OF THE TOWN OF DUCK.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

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

"ARTICLE II. CORPORATE BOUNDARIES.

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

BEGINNING at the point of intersection of the northeast corner of the corporate limits of the Town of Southern Shores in Dare County, North Carolina, with the mean high watermark of the Atlantic Ocean; thence along a line in a general easterly direction for a distance of 1,000 feet to a point along an eastern projection of the northern Town of Southern Shores limit line to a point in the Atlantic Ocean; thence, in a northwesterly direction along a line 1,000 feet parallel to the mean high watermark of the Atlantic Ocean until such line forms a point of intersection with another line, such line being the projection of the Dare County boundary line 1,000 feet easterly from the mean high watermark of the Atlantic Ocean; thence, in a westerly direction along the projected line to the intersection of Dare County boundary line with the mean high watermark of the Atlantic Ocean; thence, in a westerly direction along the Dare County boundary line to a point of intersection of the Dare County boundary line with the mean high watermark of the Currituck Sound; thence, along a line in a general westerly direction for a distance of 1,000 feet to a point along a western projection of the Dare County boundary line to a point in the Currituck Sound; thence, in a southeasterly direction along a line 1,000 feet parallel to the mean high watermark of the Currituck Sound until such line forms a point of intersection with another line, such line being the projection of the northern line of the Town of Southern Shores corporate limits 1,000 feet westerly from the mean high watermark of the Currituck Sound; thence, in an easterly direction along the projected line to the intersection of the northwest corner of the Town of Southern Shores corporate limits with the mean high watermark of the Currituck Sound; thence, in an easterly direction along the northern line of the Town of Southern Shores corporate limits to the place of beginning.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Duck shall be the Town Council, which shall have five members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election of 2002 provided for by Article IV of this Charter, Allan W. Beres, Nancy R.

Caviness, Paul F. Keller, Manfred E. Schwarz, and Judith L. Wessel are appointed to the Town Council of the Town of Duck. The temporary officers shall elect persons to serve as Interim Mayor and Interim Mayor Pro Tempore. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial election is held.

"Section 3.3. **Manner of Electing Council; Term of Office.** The qualified voters of the entire Town shall elect members of the Town Council from the Town at large, and the members shall each serve a term of two years, except that the members elected in 2002 shall serve until the organizational meeting after the 2003 municipal election. To be eligible for election to the Town Council, an individual must reside in the Town of Duck. Vacancies on the Town Council shall be filled in accordance with G.S. 160A-63.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The Mayor shall be elected from among the members of the Town Council at the organizational meeting after the initial election in November 2002 and shall serve for a term of one year. In 2003 and biennially thereafter, a Mayor shall be chosen by the same process 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 Duck, and shall have the right to vote as a member of the Town Council on all matters before the Council, but shall have no right to break a tie vote in which the Mayor has participated.

"Section 3.5. **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 2002 and shall serve for a term of one year. In 2003 and biennially thereafter, a Mayor Pro Tempore shall be chosen by the same process 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 chairman to preside in the absence. 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 3.6. **Compensation of Mayor and Town Council.** The Mayor and members of the Town Council shall be reimbursed for ordinary and necessary expenses and may receive salary and honoraria only upon a majority vote of the qualified voters of the Town who vote on the question in a special referendum.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan basis and 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, except that the first election shall be held on November 5, 2002.

"Section 4.3. **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 V. ORGANIZATION AND ADMINISTRATION.

"Section 5.1. **Form of Government.** The Town shall operate under the Council-Manager plan as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Town Manager; Appointment; Powers and Duties.** The Town Council shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government, except as otherwise directed by the Town Council. The Town 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 Town Council, so far as authorized by general law.

"Section 5.3. **Town Manager's Authority Over Personnel; Role of Elected Officials.** As chief administrator of the Town, the Town Manager shall have the power to appoint, suspend, and remove all Town officers, department heads, and employees, except the Town Attorney, Town Clerk, and any other official whose appointment or removal is vested in the Town Council by this Charter or by general law. Neither the Town Council nor any of its members shall take part in the appointment or removal of officers or employees in the administrative service of the Town of Duck, except as provided by this Charter. Except for purposes of inquiry, or for consultation with the Town Attorney, the Town Council and its members shall deal with Town employees solely through the Town Manager or Acting Town Manager, and neither the Town Council nor any of its members shall give any specific orders to any subordinates of the Town Manager or Acting Town Manager, either publicly or privately.

"Section 5.4. **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 5.5. **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 5.6. **Other Administrative Officers and Employees.** The Town Council may authorize other offices and positions and appoint persons to fill the offices and positions, or the Council may authorize the offices and positions to be filled by appointment by the Town Manager. The Town Council may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Section 5.7. **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. **Budget.** From and after July 1, 2002, the citizens and property in the Town of Duck shall be subject to municipal taxes levied for the fiscal year beginning July 1, 2002, and, for that purpose, the Town shall obtain from Dare County a record of property in the area herein incorporated that was listed for taxes as of January 1, 2002. The Town may adopt a budget ordinance for fiscal year 2002-2003 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 2002-2003, 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, 2002. The Town may adopt a budget ordinance for fiscal year 2001-2002 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, but no ad valorem taxes shall be levied for that year.

"ARTICLE VII. ORDINANCES.

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

"ARTICLE VIII. MISCELLANEOUS.

"Section 8.1. **Conflicts of Interest.** No person, or member of the person's immediate family, who is employed by or is an official of the Town of Duck, shall do business with the Town unless such 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 of Town Council.** The qualified voters of the Town of Duck may seek to enlarge 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. If a majority of the votes cast in the referendum are in the affirmative, 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. **Ad Valorem Taxes.** The Town Council shall not increase the ad valorem tax rate more than ten cents (10¢) per one hundred dollars (\$100.00) valuation above the ad valorem tax rate initially established after incorporation of the Town of Duck without the vote or consent of a majority of the qualified voters of the Town of Duck. The procedures of G.S. 160A-209 shall be followed for any such election.

"Section 9.2. **Fire Protection.** The Town of Duck shall contract with the Duck Volunteer Fire Department, Inc., to provide fire protection for the Town. The contract terms and amount paid by the Town of Duck to the Duck Volunteer Fire Department, Inc., shall be mutually agreed upon and annually renewed by the Board of Directors of the Duck Volunteer Fire Department, Inc., and the Town Council."

SECTION 2. The Dare County Board of Elections shall conduct an election on November 6, 2001, for the purpose of submitting to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Duck the question of whether or not the area shall be incorporated as the Town of Duck. 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 Duck."

SECTION 4. In the election, if a majority of the votes on the question are cast "For Incorporation of the Town of Duck", Section 1 of this act becomes effective May 1, 2002, and Sections 5 and 6 of this act become effective with respect to

distributions made on or after July 1, 2003. Otherwise, those sections do not become effective.

SECTION 5. Section 1(e) of Chapter 449 of the 1985 Session Laws, as amended by Chapter 826 of the 1985 Session Laws and Chapters 177 and 906 of the 1991 Session Laws, reads as rewritten:

"(e) Use and Distribution of Tax Revenue. Each fiscal year, Dare County shall distribute sixty-eight percent (68%) of the net proceeds of the tax, on a monthly basis, among the towns of the county that had been incorporated for at least one year as of the beginning of the fiscal year. This amount shall be divided among the towns in proportion to the amount of ad valorem taxes levied by each town for the preceding fiscal year. The county shall retain the remainder of the net proceeds. Revenue distributed to a town or retained by the county under this subsection may be used only for tourist-related purposes, including construction and maintenance of public facilities and buildings, garbage, refuse, and solid waste collection and disposal, police protection, and emergency services."

Deleted: two-thirds

Deleted: to the Towns of Kill Devil Hills, Kitty Hawk, Manteo, Nags Head, and Southern Shores

Deleted: remaining one-third

SECTION 6. Section 2(e) of Chapter 525 of the 1985 Session Laws reads as rewritten:

"(e) Use and Distribution of Tax Revenue. Each fiscal year, Dare County shall distribute thirty-five percent (35%) of the net proceeds of the tax on a quarterly basis among the towns of the county that had been incorporated for at least one year as of the beginning of the fiscal year. This amount shall be divided among the towns in proportion to the amount of ad valorem taxes levied by each town for the preceding fiscal year. Revenue distributed to a town may be used only for capital expenditures. The county shall retain the remainder of the net proceeds of the tax and place them in a special Capital Reserve Fund in the general fund of the county. Revenue in this Fund may be used by the county only for capital expenditures for the following: courts, jails and detention facilities, emergency medical services, libraries, recreation, education, administration, water, sewage, health, and social services. As used in this subsection, 'net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax."

Deleted: For the first 12 fiscal years in which a tax levied under this section is in effect, all proceeds of the tax shall be retained by the county and shall be placed in a special Capital Reserve Fund in the general fund of the county. Revenue in this Fund may be used by the county only for capital expenditures for

Deleted: the following:

Deleted: courts, jails and detention facilities, emergency medical services, libraries, recreation, education, administration, water, sewage, health, and social services. ¶

Beginning with the 13th fiscal year in which a tax levied under this section is in effect, the county shall distribute one-third (1/3)

Deleted: to the Towns of Nags Head, Kill Devil Hills, Kitty Hawk, Southern Shores, and Manteo in Dare County

Deleted: The remaining two-thirds (2/3) of the net proceeds shall be retained by the county and placed in the special Capital Reserve Fund established under this subsection, to be used only for the purposes listed above.

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of August, 2001.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

"

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-45
SENATE BILL 557**

AN ACT TO INCORPORATE THE TOWN OF MILLERS CREEK, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Town of Millers Creek is enacted to read:
"CHARTER OF THE TOWN OF MILLERS CREEK.
"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Millers Creek are a body corporate and politic under the name 'Town of Millers Creek'. The Town of Millers Creek has 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 law, the boundaries of the Town of Millers Creek are as follows:

Beginning at a point in the centerline intersection of Secondary Road #1372 (Boone Trail / Old U. S. 421) with Secondary Road #1320 (Congo Road) and running thence in a westerly direction, along the centerline of Congo Road to a point in the centerline intersection of said road with S. R. #1319 (Buck Road); thence adjoining the Town of Wilkesboro as shown on a plat entitled "Town Of Wilkesboro 421 Annexation" recorded in Map Book 9, Pages 433 through 436 in a northwesterly direction to a point in the centerline of N. C. Highway No. 16; thence a northwesterly direction to a point in the centerline intersection of said road with S. R. #1313 (Congo Road); thence along the centerline of said road to the southern boundary of PIN #3838-74-8409; thence along the southern and eastern boundary of said parcel to the eastern boundary of PIN #3838-75-1248; thence along the eastern boundary of the following five parcels, (1) PIN #3838-75-1248, (2) PIN #3838-75-1604, (3) PIN #3838-76-0032, (4) PIN #3838-66-9212, (5) PIN #3838-66-9304; thence along the northern boundary of the following three parcels, (1) PIN #3838-66-9304, (2) PIN #3838-76-2627, (3) PIN #3838-66-8658; thence along the eastern and southern boundary of PIN #3838-66-3750; thence along the southern boundary of PIN #3838-56-9710 to a point in the centerline of S. R. #1315 (Fish Dam Creek Road); thence along the center of said road in a northwesterly direction to a point in the southern boundary of PIN # 3839-21-0084; thence along the southern, eastern and northern boundary of PIN #3839-21-0084; thence along the northern boundary of PIN #3839-12-9695 to a point in the centerline of the aforesaid S. R. #1315; thence in a northerly direction along the centerline of said road to a point in the centerline intersection of said road with S. R. #1304 (Old U. S. 421); thence continuing in a northerly direction along the centerline of S. R. #1315 (Arbor Grove Church Road) to a point in the centerline intersection of said road with S. R. #1317 (Old Hwy. 60); thence continuing in a northerly direction and along the centerline of the aforesaid S. R. #1315 to the southern boundary line of PIN # 3839-39-7406; thence along the southern and eastern boundary line of PIN # 3839-39-7406; thence along the southern, eastern and northern boundary of PIN #

3839-48-5809; thence along the northern boundary line PIN #3839-39-7406 to a point in the centerline of the aforesaid S. R. #1315; thence in a northeasterly direction along the centerline of said S. R. #1315 to PIN #3930-50-8449; thence southeast along the southern boundary of said PIN #3839-50-8449; thence southeast with the southern boundary line of PIN #3839-69-8719; thence along the western, southern, eastern, and northern boundary line of PIN #3839-78-8565; thence in a western direction along the northern boundary of PIN #3839-69-8719; thence along the northern line of PIN #3930-50-8449 to a point in the centerline of the aforesaid S. R. #1368 (Arbor Grove Church Road); thence westerly to the western end of the southern right of way along S. R. #1315 (Pierce Road); thence northeast along the southern edge of the right of way along said road to a point in the centerline of S. R. #1347 (Charity Church Road); thence eastwardly along the centerline of said road to a point in the centerline intersection of N. C. Highway No. 16; thence northeastwardly along the centerline of S. R. #1315 (Pleasant Home Church Road) to the centerline intersection of said road with S. R. #1315 (Friendly Grove Church Road); thence southward along the centerline of Friendly Grove Church Road to the northern boundary of PIN #3849-36-8893; thence easterly along the northern boundary of PIN #3849-36-8893; thence northward along the western boundary of the following six parcels: (1) PIN #3849-47-1138, (2) PIN #3849-47-3334, (3) PIN #3849-47-4656, (4) PIN #3849-47-5855, (5) PIN #3849-48-6222, (6) PIN #3849-48-7594; thence eastward along the northern boundary of PIN #3849-48-9529; thence northward along the western boundary of PIN #3849-58-1565; thence eastwardly along the northern boundary of PIN #3849-58-2674; thence along the northern and eastern boundary of PIN #3849-58-5026; thence along the northern and eastern boundary of PIN #3849-57-8803; thence along the northern boundary of PIN #3849-67-0639; thence along the western and northern boundary of PIN #3849-68-5340; thence eastwardly along the northern boundary of PIN #3849-68-9350; thence eastwardly along the northern boundary of PIN #3849-78-4440; thence northward along the western and northern boundary of PIN #3849-79-6003; thence eastwardly along the northern boundary of PIN #3849-79-8454; thence eastwardly along the northern boundary of PIN #3849-79-3132; thence northward along the western boundary of the following five parcels: (1) PIN #3849-89-8871, (2) PIN #3940-80-7170, (3) PIN #3940-80-7308, (4) PIN #3940-80-7677, (5) PIN #3940-81-9015; thence eastwardly along the northern boundary of PIN #3940-91-1220; thence along the northern and eastern boundary of PIN #3940-91-3177; thence southward along the eastern boundary of PIN #3940-90-4703; thence eastwardly as the northern boundary of the following three parcels: (1) PIN #3940-90-2268, (2) PIN #3940-90-4158, (3) PIN #3940-90-7201; thence southeast along the eastern boundary of PIN #3849-99-8819; thence as the eastern and southern line of PIN #3859-09-1792; thence southwestward along the southern line of PIN #3849-99-8269; thence southward along the eastern edge of the right of way along S. R. 1552 (N Oak Grove Ext.) to the northern boundary of PIN #3849-98-8886; thence eastwardly along the following six parcels: (1) PIN #3859-08-0821, (2) PIN #3859-08-0882, (3) PIN #3859-08-2608, (4) PIN #3859-08-3265, (5) PIN #3859-08-5493, (6) PIN #3859-08-7424; thence along the northern and eastern boundary of PIN #3859-18-0541; thence southward along the eastern boundary of PIN #3859-17-1961; thence along the northern and eastern boundary of PIN #3859-18-3071; thence along the western and northern boundary of PIN #3859-17-7934; thence eastwardly along the northern boundary of PIN #3859-17-9801; thence along the northern, eastern and southern boundary of PIN #3869-27-0769; thence southward along the eastern boundary of PIN #3859-17-5416; thence along the northeastern edge of the right of way along S. R. #1551 (Nelson Lane); thence eastward along the southern boundary of PIN #3859-27-6477; thence eastward along the northern boundary of PIN #3859-36-8508; thence along the northern and eastern boundary of PIN #3859-46-0513; thence southward along the eastern and southern boundary of PIN #3859-46-0311; thence along the eastern, southern and

western boundary of PIN #3859-35-5758; thence along the southern and western boundary of PIN #3859-36-1179; thence northwestward along the southern edge of the right of way along the aforesaid S. R. #1551 (Nelson Lane) to the eastern line of PIN #3859-26-8331; thence southward along the eastern and southern boundary of PIN #3859-26-8331; thence southward along the eastern, northern, eastern and southern boundary of PIN #3859-25-7887; thence northerly along the eastern boundary of PIN #3859-16-5792; thence along the northern eastern boundary of said PIN #3859-16-5792; thence northwestward along the southern edge of the right of way along the aforesaid S. R. #1551 (Nelson Lane) and crossing S. R. #1552 (S. Oak Grove Ext.) to the eastern boundary of PIN #3849-97-5710; thence southward along the eastern, and southern boundary of said PIN #3849-97-5710; thence westward along the northern boundary of PIN #3849-86-3614; thence continuing westward along the northern boundary of PIN #3849-66-6099; thence along the western and southern boundaries of PIN #3849-45-6893; thence southward along the western boundary of PIN #3849-66-6099; thence eastward along the northern edge of the right of way along S. R. #1372 (Boone Trail / Old U. S. 421) and continuing along the southern and eastern boundary of said PIN #3849-66-6099; thence southward along the western and southern boundary of PIN #3849-85-2443, and crossing S. R. #1552 (S. Oak Grove Ext.); thence eastward along the northern boundary of PIN #3849-94-1814; thence along the northern and eastern boundary of PIN #3849-94-3713; thence southward along the eastern boundary of PIN #3849-94-9671; thence continuing southward along the eastern boundary of PIN #3849-84-3085; thence southward along the eastern right of way of S. R. #1552 (S. Oak Grove Ext.) to the northern boundary of PIN #3849-93-1685; thence eastwardly along the northern boundary of PIN #3849-93-1685; thence along the western, northern and eastern boundary of PIN #3849-93-4642; thence southward crossing the aforesaid S. R. #1552 (S. Oak Grove Ext.) to the southern edge of the right of way of the aforesaid road; thence southeastward along said right of way and the northern boundary of PIN #3849-93-4119; thence along the western boundary of PIN #3859-03-3975 to a point in the centerline of S. R. #1372 (Boone Trail / Old U. S. 421); thence westward along the centerline of said S. R. #1372 and bounded on all sides by the Canterbury Estates Addition to the Town of North Wilkesboro as shown on the plat recorded in Map Book 9, Page 405); thence eastward along the centerline of S. R. #1372 (Boone Trail / Old U. S. 421) to the centerline intersection of said road with S. R. #1517 (Suncrest Orchard Road); thence eastward along the centerline of said road to the western boundary of PIN #3859-13-7903; thence along the western, southern, and eastern boundary of said PIN #3859-13-7903 to the centerline of the aforesaid S. R. #1517; thence eastward along the centerline of said road to the western boundary of PIN #3859-22-2694; thence along the western and northern boundary of PIN #3859-22-2694; thence along the western and northern boundary of PIN #3859-23-8329; thence along the western, northern and eastern boundary of PIN #3859-33-6488; thence eastward along the northern boundary of PIN #3859-43-3007; thence northward along the eastern boundary of PIN #3859-23-2375 to the southwestern corner of PIN #3859-64-5153; thence southeastwardly along the southern and eastern boundary of PIN #3859-64-5153; thence southwestwardly along the northern, western and southern boundary of PIN #3859-64-0269; thence eastwardly along the western, southern, eastern and northern boundary of the aforesaid PIN #3859-64-5153; thence eastwardly along the northern boundary of PIN #3859-63-7925; thence easterly along the northern and eastern boundary of PIN #3859-74-1133; thence along the western and southern boundary of PIN #3859-73-4709; thence northward along the western and northern boundary of PIN #3859-73-6299; thence eastward along the northern and eastern boundary of PIN #3859-73-8069; thence continuing southward along the eastern and southern boundary of PIN #3859-82-1857; thence southward along the eastern and southern boundary of tract one of PIN #3859-82-9789; thence continuing westward along the southern boundary of PIN #3859-72-6229; thence continuing westward along

the southern boundary of PIN #3859-62-9238; thence continuing westward, crossing the aforesaid S. R. #1517 (Suncrest / Sunset Conn. Road) and running along the northern, western, and southern boundary of PIN #3859-61-5279; thence southward along the eastern boundary of PIN #3859-60-2186; thence eastwardly along the northern boundary of the following two parcels: (1) PIN #3858-69-8733, (2) PIN #3858-79-7661, to the eastern boundary of PIN #3858-88-0643; thence in a southerly direction along the eastern boundary of the aforesaid PIN #3858-88-0643; thence in a westerly direction along the northern, eastern, northern and western boundary of PIN #3858-68-0077; thence westward along the southern boundary of the following six parcels: (1) PIN #3858-48-3771, (2) PIN #3858-47-8811, (3) PIN #3858-47-3893, (4) PIN #3858-47-2873, (5) PIN #3858-47-0893, (6) PIN #3858-38-7059; thence southward along the eastern boundary of the following seven parcels: (1) PIN #3858-37-4640, (2) PIN #3858-37-4398, (3) PIN #3858-37-4112, (4) PIN #3858-37-6089, (5) PIN #3858-36-8839, (6) PIN #3858-46-0609, (7) PIN #3858-36-9530; thence along the northern, eastern and southern boundary of PIN #3858-46-1466; thence along the northwestern boundary of PIN #3858-35-9718 to a point in the centerline of S. R. #1372 (Boone Trail / Old U. S. 421); thence northwestward along said centerline to the point of beginning.

"ARTICLE III. GOVERNING BODY.

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

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2001 provided for by Section 4.1 of this Charter, Buck Parsons is hereby appointed Mayor, and Ravaughn Ashley, Harold Bowlin, Clyde Bumgarner, Joyce Dyer, John Higgins, and Archie Nichols are appointed members of the Town Council. They shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter.

"Section 3.3. **Manner of Electing Town Council; Term of Office.** 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 2001, the three candidates receiving the highest numbers of votes shall be elected to four-year terms and the three candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2003, and quadrennially thereafter, three members shall be elected to four-year terms. In 2005, and quadrennially thereafter, three members shall be elected to four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 2001, and biennially thereafter, the Mayor shall be elected for a term of two years.

"ARTICLE IV. ELECTIONS.

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

"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 Clerk.** The Town Council shall appoint a Town Clerk as provided in G.S. 160A-171, and the clerk shall perform the duties required by law or the Council.

"Section 5.3. **Town Attorney.** The Town Council shall appoint a Town Attorney as provided in G.S. 160A-173, and the Town Attorney shall serve at the pleasure of the Town Council and be its legal adviser."

SECTION 2. From and after the effective date of this act, the citizens and property in the Town of Millers Creek shall be subject to municipal taxes levied for the year beginning July 1, 2001. For that purpose the Town shall obtain from Wilkes County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2001. The Town may adopt a budget ordinance for fiscal year 2001-2002 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 2001-2002, 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. If the effective date of the incorporation is prior to July 1, 2001, the Town may adopt a budget ordinance for fiscal year 2000-2001 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 practical. No ad valorem taxes may be levied for the 2000-2001 fiscal year.

SECTION 3. The Wilkes County Board of Elections shall conduct an election on a date set by the Board, to be not less than 60 nor later than 120 days after this act becomes law, for the purpose of submission to the qualified voters for the area described in Section 2.1 of the Charter of the Town of Millers Creek the question of whether or not the area shall be incorporated as the Town of Millers Creek. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

SECTION 4. In the election, the question on the ballot shall be:
" FOR AGAINST
Incorporation of the Town of Millers Creek".

SECTION 5. In the election, if a majority of the votes are cast "For the Incorporation of the Town of Millers Creek", Sections 1 and 2 of this act shall become effective on the date that the Wilkes County Board of Elections certifies the results of the election. Otherwise, Sections 1 and 2 of this act shall have no force and effect.

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

In the General Assembly read three times and ratified this the 7th day of May, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

1

SENATE BILL 656

Short Title: Kipling Incorporated.

(Local)

Sponsors: Senator Harris.

Referred to: Finance.

March 22, 2001

A BILL TO BE ENTITLED
AN ACT TO INCORPORATE THE TOWN OF KIPLING.

The General Assembly of North Carolina enacts:

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

"CHARTER OF THE TOWN OF KIPLING.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Kipling are a body corporate and politic under the name 'Town of Kipling'. The Town of Kipling has 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 law, the boundaries of the Town of Kipling are as follows:

"ARTICLE III. GOVERNING BODY.

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

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2001 provided for by Section 4.1 of this Charter, Jennifer Knight, Kathy Bradley, Dan LaReaux, Michael Novak, Earl Herring, and Rob Elsen are appointed Councilmen of the Town of Kipling, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2001.

"Section 3.3. **Manner of Electing Town Council; Term of Office.** 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 2001, the two candidates receiving the highest numbers of votes shall be elected to four-year terms and the three candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2003, and quadrennially thereafter, three members shall be elected to four-year terms. In 2005, and quadrennially thereafter, two members shall be elected to four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 2001, and quadrennially thereafter, the Mayor shall be elected for a term of four years.

"ARTICLE IV. ELECTIONS.

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

"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 2. From and after the effective date of this act, the citizens and property in the Town of Kipling shall be subject to municipal taxes levied for the year beginning July 1, 2001. For that purpose the Town shall obtain from Harnett County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2001. The Town may adopt a budget ordinance for fiscal year 2001-2002 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 2001-2002, 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. If the effective date of the incorporation is prior to July 1, 2001, the Town may adopt a budget ordinance for fiscal year 2000-2001 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 practical. No ad valorem taxes may be levied for the 2000-2001 fiscal year.

SECTION 3. This act is effective when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

S

2

**SENATE BILL 24
State and Local Government Committee Substitute Adopted 3/5/01**

Short Title: West Norman Incorporation.

(Local)

Sponsors:

Referred to:

February 1, 2001

A BILL TO BE ENTITLED
AN ACT TO INCORPORATE THE TOWN OF WEST NORMAN SUBJECT TO A
REFERENDUM.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Town of West Norman is enacted to read:

"CHARTER OF THE TOWN OF WEST NORMAN.

"ARTICLE I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of West Norman are a body corporate and politic under the name 'Town of West Norman'. The Town of West Norman has 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 law, the boundaries of the Town of West Norman are as follows:

Starting at the center of the Catawba River Bridge and the north right-of-way of Highway 73 and the east boundary of Lincoln County, west along the north right-of-way of Highway 73 to the intersection of South Pilot Knob Road; southwest along the northwest right-of-way of South Pilot Knob Road to the intersection of the Boundary of Waterside Crossing property; south along the boundary line of Waterside Crossing property south of South Pilot Knob Road to the southwest corner of Waterside Crossing property and the northwest right-of-way of South Pilot Knob Road; southwest along the northwest right-of-way of South Pilot Knob Road to the intersection of South Little Egypt Road; thence northwest along the northeast right-of-way of South Little

Egypt Road crossing Highway 16 to the southeast intersection of Oxford Hunt property and South Little Egypt Road; southwest along the boundary of Oxford Hunt property to include all Oxford Hunt property southwest of South Little Egypt Road and back to the intersection of the west side of Oxford Hunt property and the northeast right-of-way of South Little Egypt Road, then northwest along the northeast right-of-way of South Little Egypt Road to the intersection of the north right-of-way of Highway 73 thence west along the north right-of-way of Highway 73 to the intersection of Schronce Road and Highway 73; thence, northeast along the southeast right-of-way of Schronce Road to Ingleside Farm Road to the intersection of Schronce Road and the northeast right of way on North Ingleside Farm Road. Thence northwest along the northeast right-of-way of North Ingleside Farm Road to the intersection of the Michael R. Newsom property line. Thence along the north side of this property line to Snyder Creek, north along Snyder Creek to the point where the Edward H. Knox property joins Snyder Creek. Northwest, then northeast along the Edward H. Knox property line to Kidville Road and the intersection of Kidville Road and the Kidville Road-N.C. 16 Bypass LLC property line. Then northwest, northeast and southeast along the Kidville Road-N.C. 16 Bypass LLC property line to the St. James United Methodist Church property line. Then along this line to southeast right-of-way of St. James Church Road. North along east right-of-way of St. James Church Road to the intersection with the Catawba Springs Hunters Club property. Then east, south, northeast and south along the Catawba Springs Hunters Club property to the intersection with the CSX Railroad. Then north along the CSX Railroad right-of-way to the S.A. Howard Jr. property, east along this property line and across Highway 16 east right-of-way. North along the Highway 16 east property line to the south right-of-way of Webbs Road right-of-way; thence along the south right-of-way of Webbs Road to the intersection of Burton Lane and Webbs Road; then north along the east right-of-way of Burton Lane to the intersection of Burton Lane and the northwest corner of Crescent Resources property; thence east along the north boundary of Crescent Resources property to the east boundary of Lincoln County in Lake Norman; thence south along the east boundary of Lincoln County in Lake Norman to include the Cowans Ford Hydroelectric Plant and south to the starting point at the east boundary of Lincoln County and the north right-of-way of Highway 73 on the Catawba River Bridge.

"ARTICLE III.

"GOVERNING BODY.

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

"Section 3.2. **Temporary Officers.** Until the initial elections of 2003 provided for by Section 4.1 of this Charter, Larry Olmsted is hereby appointed Mayor, and Jack G. McCachern, Thomas McGuire, Gregory H. Coffey, Leonard McPherson, and Celeste I. Renaldo are appointed members of the Town Council. They shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. If any person named in this section is unable to

serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the regular municipal elections are held in 2003.

"Section 3.3. **Manner of Electing Town Council; Term of Office.** 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 2003, the three 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 2005, and quadrennially thereafter, two members shall be elected to four-year terms. In 2007, and quadrennially thereafter, three members shall be elected to four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 2003, and biennially thereafter, the Mayor shall be elected for a term of two years.

"ARTICLE IV.

"ELECTIONS.

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

"ARTICLE V.

"ADMINISTRATION.

"Section 5.1. **Town to Operate Under Council-Manager Plan.** The Town shall operate under the Council-Manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes."

SECTION 2.(a) The whole or any portion of the Denver Fire Protection District and the East Lincoln Fire Protection District that is located within the boundaries of the Town of West Norman upon the effective date of this act shall remain a fire protection district or portion of a fire protection district and the district or portion shall be subject to G.S. 69-25.4 authorizing the Lincoln County Board of Commissioners to levy and collect a tax in the district or portion for the purpose of furnishing fire protection therein.

SECTION 2.(b) G.S. 69-25.15 shall not apply to the Town of West Norman.

SECTION 2.(c) Upon the adoption of an ordinance by the governing body of the Town of West Norman finding that the Town is able to establish a fire and rescue department staffed either by volunteers or by full-time professional employees, or to otherwise adequately provide for fire protection and rescue services, the whole or any portion of the Denver Fire Protection District and the East Lincoln Fire Protection District that is located within the boundaries of the Town of West Norman shall immediately cease to be a fire protection district or portion of a fire protection district and the district or portion shall no longer be subject to G.S. 69-25.4. Any ordinance adopted under this subsection shall become effective on the first day of July which is more than 60 days after adoption of the ordinance.

SECTION 3. From and after the effective date of this act, the citizens and property in the Town of West Norman shall be subject to municipal taxes levied for the

year beginning July 1, 2001. For that purpose the Town shall obtain from Lincoln County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2001. The Town may adopt a budget ordinance for fiscal year 2001-2002 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 2001-2002, 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. If the effective date of the incorporation is prior to July 1, 2001, the Town may adopt a budget ordinance for fiscal year 2000-2001 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 practical. No ad valorem taxes may be levied for the 2000-2001 fiscal year.

SECTION 4. The Lincoln County Board of Elections shall conduct an election on a date set by the Board, to be not less than 60 nor later than 120 days after this act becomes law, for the purpose of submission to the qualified voters for the area described in Section 2.1 of the Charter of the Town of West Norman the question of whether or not the area shall be incorporated as the Town of West Norman. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

SECTION 5. In the election, the question on the ballot shall be:

" FOR AGAINST

Incorporation of the Town of West Norman".

SECTION 6. In the election, if a majority of the votes are cast "For the Incorporation of the Town of West Norman", Sections 1 through 3 of this act shall become effective on the date that the Lincoln County Board of Elections certifies the results of the election. Otherwise, Sections 1 through 3 of this act shall have no force and effect.

SECTION 7. This act is effective when it becomes law.