

NORTH CAROLINA GENERAL ASSEMBLY  
1969 SESSION

CHAPTER 959  
HOUSE BILL 1305

1 AN ACT TO INCORPORATE THE TOWN OF COOLEEMEE IN DAVIE COUNTY  
2 SUBJECT TO AN ELECTION.

3  
4 The General Assembly of North Carolina do enact:  
5

6 **Section 1.** (a) The Board of Elections of Davie County is hereby authorized to call  
7 and conduct a special election on such date as it shall determine for the purpose of submitting  
8 to the qualified voters of the area hereinafter described as the proposed corporate limits of the  
9 Town of Cooleemee the question whether or not such area shall be incorporated as a municipal  
10 corporation known as the Town of Cooleemee, and to elect the members of the governing body  
11 if said area is incorporated. On the election day, the polls shall be open from 6:30 a.m. until  
12 6:30 p.m. The Board of Elections for Davie County in conducting the election required to be  
13 held herein shall follow the procedure as outlined in this Act and the General Statutes of North  
14 Carolina relating to municipal elections where not in conflict with this Act.

15 (b) A new registration of all qualified voters in the described area shall be  
16 conducted for the purpose of registering the names of those who desire to vote in such special  
17 election. The registration book for such new registration shall be open for thirty (30) days prior  
18 to the election and shall remain open on each day from 9:00 a.m. until 5:00 p.m. On the second,  
19 third and fourth Saturdays preceding the election, the books shall be kept at the polling place.  
20 On other days during the registration period, it may be kept at the home or place of business of  
21 the registrar, or at the polling place, as designated in the notice hereinafter required. The  
22 Saturday before the election shall be Challenge Day.

23 (c) The Board of Elections of Davie County shall, not later than thirty (30) days  
24 before the election, appoint a registrar and two judges of election and designate a polling place  
25 for the special election.

26 (d) Not later than thirty (30) days before the election, the Board of Elections of  
27 Davie County shall cause to be posted at the Cooleemee Post Office, and at such other public  
28 places as the Board may choose, a notice stating the time, the polling place, and the purpose of  
29 the special election; the names of the registrar and judges of election; the dates, hours, and  
30 place or places of registration; the date, time, and place for challenges; that the registration is a  
31 complete new registration for the special election; and that candidates for election to the Town  
32 Board of Commissioners must file with the Board notice of candidacy not earlier than forty-  
33 five (45) days and not later than thirty (30) days before the election. The Board of Elections  
34 may, in its discretion, also cause such notice to be published one or more times in a newspaper  
35 having general circulation in the Cooleemee community.

36 (e) Any qualified voter who would offer himself as a candidate for Commissioner in  
37 such election shall file with the Chairman or Clerk of the Board of Elections of Davie County a  
38 written statement giving notice of his candidacy. Such notice shall be filed not earlier than  
39 forty-five (45) days and not later than thirty (30) days before the election, and shall be  
40 substantially in the following form: "I, \_\_\_\_\_, do hereby give notice that I am  
41 a candidate for election to the office of Commissioner, Town of Cooleemee, to be voted on at  
42 the election to be held on call of Board of Elections of Davie County, and I hereby request that

1 my name be placed on the official ballot for such office. I certify that I am a resident and  
 2 qualified voter of the Town of Cooleemee, residing at \_\_\_\_\_ .  
 3 \_\_\_\_\_(Date)\_\_\_\_\_ (Signature)\_\_\_\_\_

4 Witness:\_\_\_\_\_."  
 5 (f) In the special election, those voters who favor the incorporation of the Town of  
 6 Cooleemee as provided in this Act shall vote a ballot upon which shall be printed the words:  
 7 "FOR Incorporation of Town of Cooleemee", and those voters who are opposed to the  
 8 incorporation of the Town of Cooleemee as provided in this Act shall vote a ballot upon which  
 9 shall be printed the words "AGAINST Incorporation of Town of Cooleemee".

10 (g) Also in the special election, each qualified registered voter shall be entitled to  
 11 vote for five (5) candidates for Commissioner upon a ballot on which shall be listed, in  
 12 alphabetical order, the names of all persons who filed notice of candidacy with the Board of  
 13 Elections during the period hereinabove established.

14 **Sec. 2.** If a majority of the votes cast in such special election shall be cast  
 15 "AGAINST Incorporation of Town of Cooleemee", then Sections 4 through 13 of this Act shall  
 16 have no force and effect.

17 **Sec. 3.** If a majority of the votes cast in such special election shall be cast "FOR  
 18 Incorporation of Town of Cooleemee", then Sections 10 through 13 of this Act shall be in full  
 19 force and effect from and after date of the election.

20 **Sec. 4.** (a) In the special election, the three (3) candidates for Commissioner who  
 21 receive the largest numbers of votes cast for Commissioner shall be declared elected for terms  
 22 of four (4) years or until their successors are elected and qualified, and the two (2) candidates  
 23 for Commissioner who receive the next largest numbers of votes cast for Commissioner shall  
 24 be declared elected for terms of two (2) years or until their successors are elected and qualified.  
 25 In case of a tie between opposing candidates, the Board of Elections shall determine the result  
 26 by lot.

27 (b) The Chairman of the Board of Elections shall notify the persons elected as  
 28 Commissioners, and shall designate some qualified officer to administer to them the oath of  
 29 office, which shall be done as soon as practicable following their election.

30 **Sec. 5.** The following provisions of law shall constitute the Charter of the Town of  
 31 Cooleemee in Davie County:

32 "THE CHARTER OF THE TOWN OF COOLEEMEE

33 "ARTICLE I. INCORPORATION AND CORPORATE POWERS

34 **"Section 1.1. Incorporation and General Powers.** The inhabitants of the area described  
 35 in Section 2.1 of this Charter shall be and constitute a body politic and corporate under the  
 36 name of the 'Town of Cooleemee', and shall be vested with all property which may be acquired  
 37 by the Town, and all rights herein delegated to it; shall have perpetual succession; may have a  
 38 common seal and alter and renew the same at pleasure; may sue and be sued; may contract;  
 39 may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold  
 40 or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to  
 41 time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity  
 42 with this Charter all municipal powers, functions, rights, privileges, and immunities of every  
 43 name and nature.

44 **"Section 1.2. Exercise of Powers.** All powers, functions, rights, privileges, and immunities  
 45 of the Town, its officers, agencies, or employees, shall be carried into execution as provided by  
 46 this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of  
 47 the Board of Commissioners and as provided by the general laws of North Carolina pertaining  
 48 to municipal corporations.

49 **"Section 1.3. Enumerated Powers Not Exclusive.** The enumeration of particular powers  
 50 by this Charter shall not be held or deemed to be exclusive but, in addition to the powers  
 51 enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the

1 Town of Cooleemee shall have and may exercise all powers which are granted to municipal  
2 corporations by the general laws of North Carolina and all powers which, under the  
3 Constitution of North Carolina, it would be competent for this Charter specifically to  
4 enumerate.

5 **"ARTICLE II. CORPORATE BOUNDARIES**

6 **"Section 2.1. Corporate Boundaries.** (a) Beginning at River Bridge, Highway 801 to  
7 Rowan County, follow South Yadkin River upstream to "Cowpasture Branch" just beyond  
8 River Dam. Follow Branch to point adjacent to Church Street Extension, then to a point  
9 northwest end of Hickory Street, then to include all property adjoining Hickory Street to  
10 intersection of Hickory Street and State Road No. 1128 and all property adjoining State Road  
11 No. 1128 to Highway 801; then all property adjoining Highway 801 to intersection at Midway  
12 Street to Center Street; then go southwest on centerline of Center Street to point approximately  
13 200 feet from Midway Street. At this point, all adjoining property on Center Street to Holt  
14 Street. Include all property adjoining Holt Street, north on line to River Bridge at Beginning  
15 point.

16 "(b) As soon as practicable following their election, the Board of Commissioners of the  
17 Town of Cooleemee shall cause to be made an accurate survey of the corporate boundaries and  
18 shall cause to be made an accurate map based upon such survey. After such survey and map is  
19 completed, and after the Board of Commissioners of the Town of Cooleemee finds and declares  
20 upon its minutes that the boundaries shown on such map do not vary from the description in  
21 subsection (a) of this Section, they shall cause accurate copies of such map to be filed in the  
22 office of the register of deeds of Davie County and in the office of the Secretary of State of  
23 North Carolina. From and after the time a copy of such map is filed in the office of the register  
24 of deeds of Davie County, the corporate boundaries as shown thereon shall be the corporate  
25 boundaries of the Town of Cooleemee until changed in accordance with law. An accurate copy  
26 of such map shall also be maintained in the Town offices.

27 **"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS**

28 **"Section 3.1. Mayor and Mayor Pro Tempore.** The Board of Commissioners shall  
29 choose one of its number to be the Mayor of the Town of Cooleemee. The Mayor shall be the  
30 official head of the Town government and shall preside at all meetings of the Board of  
31 Commissioners. When there is an equal division upon any question, or in the appointment of  
32 officers, by the Board, the Mayor shall determine the matter by his vote, and shall vote in no  
33 other case. The Mayor shall exercise such powers and perform such duties as are or may be  
34 conferred upon him by the general laws of North Carolina, by this Charter, and by the  
35 ordinances of the Town. The Board of Commissioners shall also choose one of its number to  
36 act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence  
37 or disability. The Mayor and Mayor Pro Tempore as such shall have no fixed term of office,  
38 but shall serve in such capacity at the pleasure of the Board of Commissioners.

39 **"Section 3.2. Composition of Board of Commissioners.** The Board of Commissioners  
40 shall consist of five (5) members to be elected by and from the qualified voters of the Town  
41 voting at large in the manner provided by Article IV.

42 **"Section 3.3. Terms; Qualifications; Vacancies.** (a) Except for the initial terms of office  
43 hereinbefore specified, the Mayor and the members of the Board of Commissioners shall serve  
44 for terms of four (4) years, beginning the day and hour of the organizational meeting following  
45 their election, as established by ordinance in accordance with this Charter; provided, they shall  
46 serve until their successors are elected and qualify.

47 "(b) No person shall be eligible to be a candidate or be elected as a member of the Board  
48 of Commissioners, or to serve in such capacity, unless he is a resident and a qualified voter of  
49 the Town.

50 "(c) If any elected Commissioner shall refuse to qualify, or if there shall be any vacancy  
51 in the office of Commissioner after election and qualification, the remaining members of the

1 Board shall by majority vote appoint some qualified person to serve for the unexpired term.  
2 Any Commissioner so appointed shall have the same authority and powers as if regularly  
3 elected.

4 **"Section 3.4. Compensation of Mayor and Commissioners.** The Mayor and other  
5 members of the Board of Commissioners shall receive for their services such salary as the  
6 Board of Commissioners shall determine. After the initial salaries have been established, such  
7 salaries may be increased or decreased as the Board of Commissioners sees fit, but no increase  
8 or decrease shall be made to take effect during the respective term of office which he is serving  
9 at the time the increase or decrease is voted.

10 **"Section 3.5. Organization of Board; Oaths of Office.** The Board of Commissioners  
11 shall meet and organize for the transaction of business at a time established by ordinance,  
12 following each biennial election and prior to July 1. Before entering upon their offices, each  
13 Commissioner shall take, subscribe, and have entered upon the minutes of the Board the  
14 following oath of office: 'I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support  
15 and defend the Constitution of the United States and the Constitution and laws of North  
16 Carolina not inconsistent therewith and that I will faithfully perform the duties of the office of  
17 Commissioner, on which I am about to enter, according to my best skill and ability; so help me,  
18 God.'

19 **"Section 3.6. Meetings of Board.** (a) The Board of Commissioners shall fix suitable times  
20 for its regular meetings, which shall be as often as once monthly. Special meetings may be held  
21 on the call of the Mayor or a majority of the Commissioners, and those not joining in the call  
22 shall be notified in writing. Any business may be transacted at a special meeting that might be  
23 transacted at a regular meeting.

24 "(b) All meetings of the Board of Commissioners shall be open to the public. The Board  
25 shall not by executive session or otherwise formally consider or vote upon any question in  
26 private session.

27 **"Section 3.7. Quorum; Votes.** (a) A majority of the members elected to the Board of  
28 Commissioners shall constitute a quorum for the conduct of business, but a less number may  
29 adjourn from time to time and compel the attendance of absent members in such manner as  
30 may be prescribed by ordinance.

31 "(b) The affirmative vote of a majority of the members of the Board of Commissioners  
32 shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an  
33 ordinance. All other matters to be voted upon shall be decided by a majority vote of the  
34 members present and voting.

35 **"Section 3.8. Ordinances and Resolutions.** The adoption, amendment, repeal, pleading,  
36 or proving of ordinances shall be in accordance with the applicable provisions of the general  
37 laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken  
38 upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting  
39 clause of all ordinances shall be: Be it ordained by the Board of Commissioners of the Town of  
40 Cooleemee.' All ordinances and resolutions shall take effect upon adoption unless otherwise  
41 provided therein, or unless some provision of the General Statutes provides otherwise.

#### 42 "ARTICLE IV. ELECTION PROCEDURE

43 **"Section 4.1. Regular Municipal Elections.** Following the initial election hereinbefore  
44 provided for, regular municipal elections shall be held on the Tuesday after the first Monday in  
45 May of each odd-numbered year, beginning in 1971. In the regular 1971 election and  
46 quadrennially thereafter, there shall be elected by the qualified voters of the Town voting at  
47 large two (2) Commissioners to serve for a term of four (4) years, or until their successors are  
48 elected and qualify. In the regular 1973 election and quadrennially thereafter, there shall be  
49 elected by the qualified voters of the Town voting at large three (3) Commissioners to serve for  
50 terms of four (4) years, or until their successors are elected and qualify.

"Section 4.2. Voting. In the regular 1971 election and quadrennially thereafter, each voter shall be entitled to vote for two (2) candidates for Commissioner, and the two (2) candidates for Commissioner who receive the largest numbers of votes cast for Commissioner shall be declared elected. In the 1973 election and quadrennially thereafter, each voter shall be entitled to vote for three (3) candidates for Commissioner, and the three (3) candidates who receive the largest numbers of votes cast for Commissioner shall be declared elected. In case of a tie between opposing candidates, the election officials shall determine the result by lot.

"Section 4.3. Marking of Ballots. In all regular municipal elections, each voter shall cast his vote for as many candidates as there are offices to be filled, and where an elector marks a ballot for any number of candidates less than the number of offices to be filled, such ballot shall not be counted for any of the candidates. There shall be printed on all ballots for Commissioner the number of candidates to be voted for.

"Section 4.4. Filing of Candidates. Each qualified person who would offer himself as a candidate for the office of Commissioner shall file with the Town Clerk a statement giving notice of his candidacy. Such notice shall be filed not earlier than the eighth Friday nor later than five o'clock p.m. on the third Friday prior to the election at which he offers his candidacy, shall be accompanied by payment of a filing fee of five dollars (\$5.00), and shall be substantially in the following form: 'I, \_\_\_\_\_, do hereby give notice that I am a candidate for election to the office of Commissioner, Town of Cooleemee, to be voted on at the election to be held on \_\_\_\_\_, and I hereby request that my name be placed on the official ballot for such office. I certify that I am a resident and qualified voter of the Town of Cooleemee, residing at \_\_\_\_\_.

\_\_\_\_\_(Date)\_\_\_\_\_ (Signature)\_\_\_\_\_

\_\_\_\_\_(Witness)\_\_\_\_\_.

"Section 4.5. Regulation of Elections. All municipal elections shall be conducted in accordance with the provisions of the General Statutes of North Carolina, except as otherwise herein provided.

"ARTICLE V. TOWN ATTORNEY

"Section 5.1. Appointment; Qualifications; Term; Compensation. The Board of Commissioners shall appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board of Commissioners and shall receive such compensation as the Board shall determine.

"Section 5.2. Duties of Town Attorney. It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Commissioners, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Commissioners; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

"Section 6.1. Town Clerk. The Board of Commissioners shall appoint a Town Clerk to keep a journal of the proceedings of the Board and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board may direct.

"Section 6.2. Town Tax Collector. The Board of Commissioners may appoint a Tax Collector to collect all taxes, licenses, fees and other moneys 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 foreclosure of taxes by municipalities.



1 recovering such land or having any compensation therefor; provided, nothing herein shall affect  
2 the rights of persons under disabilities until two (2) years following removal thereof.

3 **"Section 8.2. Tort Claims.** All claims or demands against the Town arising in tort shall be  
4 presented to the Board of Commissioners in writing, signed by the claimant or his attorney or  
5 agent, within ninety (90) days after such claim or demand is due or the cause of action accrues.  
6 No suit or action shall be brought on such a claim or demand within thirty (30) days or after the  
7 expiration of twelve (12) months from the time such claim or demand is presented. Unless the  
8 said claim or demand is so presented within ninety (90) days, and unless suit is brought within  
9 twelve (12) months thereafter, any action thereon shall be barred.

10 "ARTICLE IX. GENERAL PROVISIONS

11 **"Section 9.1. Health and Well-Being of Citizens.** The Board of Commissioners of the  
12 Town shall have the power and the right to adopt such rules and regulations for the effective  
13 policing of the Town as they may deem necessary, and to take all necessary steps for the proper  
14 enforcement of the same; and the Board of Commissioners shall have the right and the power to  
15 adopt such rules and regulations for the preservation and protection of the health and well-  
16 being of the Town and its citizens as they may deem necessary, and to take all necessary steps  
17 for the proper enforcement of the same.

18 **"Section 9.2. North Carolina General Statutes.** The Town shall have the benefit of and  
19 be subject to all the provisions of Chapter 160 of the General Statutes of North Carolina and all  
20 laws amendatory thereof, and shall have the benefit of and be subject to all the provisions of all  
21 general laws regulating towns and cities, except in so far as said Chapter 160 and the aforesaid  
22 laws are modified and changed by the provisions of this Town Charter."

23 **Sec. 6.** If any provisions of this Act or the application thereof to any person or  
24 circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not  
25 affect other provision or applications of this Act which can be given effect without the invalid  
26 provisions or application, and to this end the provisions of this Act are declared to be severable.

27 **Sec. 7.** All laws and clauses of laws in conflict with the provisions of this Act are  
28 hereby repealed.

29 **Sec. 8.** Subject to the provisions of Sections 1 through 3 hereof, this Act shall be in  
30 full force and effect from and after its ratification.

31 In the General Assembly read three times and ratified, this the 23rd day of June,  
32 1969.