

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 570
Second Edition Engrossed 4/1/09

Short Title: Indian Trail Charter Revised. (Local)

Sponsors: Senator Goodall.

Referred to: Finance.

March 12, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF INDIAN
3 TRAIL.

4 The General Assembly of North Carolina enacts:

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

7 "CHARTER OF THE TOWN OF INDIAN TRAIL.

8 "ARTICLE I. INCORPORATION AND CORPORATE POWERS.

9 "Section 1.1. **Incorporation and General Powers.** The Town of Indian Trail shall
10 continue to be a body politic and corporate under the name and style of "Town of Indian Trail"
11 and shall continue to be vested with all property and rights which now belong to the Town;
12 shall have perpetual succession; may have a common seal and alter and renew the same at
13 pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and
14 personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or
15 otherwise acquired by it, and may from time to time hold or invest, sell or dispose of the same;
16 and shall have and may exercise in conformity with this Charter all municipal powers,
17 functions, rights, privileges, and immunities of every name and nature.

18 "Section 1.2. **Exercise of Powers.** All powers, functions, rights, privileges, and immunities
19 of the Town, its officers, agencies, or employees, shall be carried into execution as provided by
20 this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of
21 the Town Council and as provided by the general laws of North Carolina pertaining to
22 municipal corporations.

23 "Section 1.3. **Enumerated Powers Not Exclusive.** The enumeration of particular powers
24 by this Charter shall not be held or deemed to be exclusive but, in addition to the powers
25 enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the
26 Town of Indian Trail shall have and may exercise all powers which are granted to municipal
27 corporations by the general laws of North Carolina.

28 "Section 1.4. **Form of Government.** The form of government of the Town of Indian Trail
29 shall be known as the "Council-Manager Form of Government," as set forth in Part 2 of Article
30 7 of Chapter 160A of the General Statutes subject to the modifications of this Charter. Nothing
31 contained in this Charter shall be construed to prevent the form of government of the Town of
32 Indian Trail from being changed as by law provided.

33 "ARTICLE II. CORPORATE BOUNDARIES.

34 "Section 2.1. **Existing Corporate Boundaries.** The corporate boundaries of the Town of
35 Indian Trail shall be those existing at the time of the ratification of this Charter and as the same
36 may be altered from time to time in accordance with law. The Town Planning Director shall



1 prepare a map to be designated "Map of the Town of Indian Trail Limits" showing the
2 corporate limits as the same may exist as of the effective date of this Charter. The Town
3 Planning Director may also prepare a written description of the corporate limits as shown on
4 said map to be designated "Description of the Town of Indian Trail Corporate Limits." Said
5 map and description shall be retained permanently in the Office of the Town Clerk as the
6 official map and description of the corporate limits of the Town. Immediately upon alteration
7 of the corporate limits made pursuant to law from time to time, the Town Planning Director
8 shall indicate such alteration by making appropriate changes and/or additions to said official
9 map and description. Photographic or other types of copies of said official map or description
10 certified as by law provided for the certification of ordinances shall be admitted in evidence in
11 all courts and shall have the same force and effect as would the official map or description.

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

14 "ARTICLE III. MAYOR AND TOWN COUNCIL.

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

19 "Section 3.2. **Mayor and Mayor Pro Tempore.** The Mayor shall be elected by and from
20 the qualified voters of the Town voting at large in the manner provided in Article IV. The
21 Mayor shall be the official head of the Town government and shall preside at all meetings of
22 the Town Council. When there is an equal division upon any question, or in the appointment of
23 officers, by the Council, the Mayor shall determine the matter by his own vote, and shall vote
24 in no other case. The Mayor shall exercise such powers and perform such duties as are or may
25 be conferred upon him by the general laws of North Carolina, by this Charter, and by the
26 ordinance of the Town. The Town Council shall choose one of its number to act as Mayor Pro
27 Tempore, and he shall perform the duties of Mayor in the Mayor's absence or disability. The
28 Mayor Pro Tempore as such shall have no fixed term of office but shall serve in such capacity
29 at the pleasure of the remaining members of the Council.

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

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

33 (a) Beginning with the regular action in 1971, the Mayor and the members of the Town
34 Council shall serve for terms of four years beginning the day and hour of the organizational
35 meeting following their election, as established by ordinance in accordance with this Charter,
36 provided they shall serve until their successors are elected and qualify.

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

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

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

50 "Section 3.6. **Organization of Council; Oaths of Office.** The Town Council shall meet
51 and organize for the transaction of business at a time established by ordinance, following each

1 biennial election and prior to December 15. Before entering upon their offices, the Mayor and
2 each Councilman shall take, subscribe, and have entered upon the minutes of the Council the
3 following oath of office: "I, _____, do solemnly swear (or affirm) that I will support and
4 defend the Constitution of the United States and the Constitution and laws of North Carolina
5 not inconsistent therewith, and that I will faithfully perform the duties of the office of _____,
6 on which I am about to enter, according to my best skill and ability; so help me, God."

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

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

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

14 (b) The affirmative vote of a majority of the members of the Town Council shall be
15 necessary to adopt any ordinance or any resolution or motion having the effect of an ordinance.
16 All other matters to be voted upon shall be decided by a majority vote of those present and
17 voting.

18 "Section 3.9. **Ordinances and Resolutions.** The adoption, amendment, repeal, pleading, or
19 proving of ordinances shall be in accordance with the applicable provisions of the general laws
20 of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all
21 ordinances and resolutions and entered upon the minutes of the Council. The enacting clauses
22 of all ordinances shall be: "Be it ordained by the Town Council of the Town of Indian Trail."
23 All ordinances and resolutions shall take effect upon adoption unless otherwise provided
24 therein.

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

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

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

37 (b) The Town Manager shall:

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

49 "Section 3.12. **Town Attorney.** The Council shall appoint a Town Attorney licensed to
50 practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town,
51 advise Town Officials, be present at all meetings of the Town Council, and perform other

1 duties as required by law or as the Council may prescribe. The Town Attorney shall serve at the
2 pleasure of the Council and shall receive compensation as the Council shall determine.

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

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

9 "Section 3.15. **Tax Collector.** The Town Manager shall appoint a Tax Collector to collect
10 all taxes, licenses, fees, and other monies belonging to the Town, subject to the provisions of
11 this Charter and the ordinances of the Town, and he shall diligently comply with and enforce
12 all the general laws of North Carolina relating to the collection, sale, and foreclosures of taxes
13 by municipalities. Notwithstanding the contrary provisions of G.S. 105-349, the Town Manager
14 may appoint the Tax Collector and one or more deputies.

15 "Section 3.16. **Consolidation of Functions.** The Town Manager may, in his discretion,
16 consolidate the functions of any two or more of the positions of Town Clerk, Town Tax
17 Collector, and Town Finance Officer, or may assign the functions of any one or more of these
18 positions to the holder or holders of any other of these positions. The Manager may also, in his
19 discretion, designate a single employee to perform all or any part of the functions of any of the
20 named positions, in lieu of appointing several persons to perform the same.

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

24 "ARTICLE IV. ELECTION PROCEDURE.

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

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

36 "Section 4.3. **Regulation of Elections.** The method of election of the Mayor and Town
37 Council shall be the nonpartisan election and runoff method to be conducted as provided in
38 G.S. 163-293.

39 "ARTICLE V. STREET, SIDEWALK, AND LIGHTING IMPROVEMENTS.

40 "Section 5.1. **Street Improvements; Assessment of Cost.** In addition to any authority
41 which is now or may hereafter be granted by general law to the Town for making street
42 improvements, the Town Council may make street improvements and assess the cost thereof
43 against abutting property owners in accordance with the provisions of this Article.

44 "Section 5.2. **When Petition Unnecessary.** The Town Council may order street
45 improvements and assess the cost thereof, exclusive of the cost incurred at street intersections,
46 against the abutting property owners at an equal rate per front foot, without the necessity of a
47 petition, upon the finding by the Council as a fact:

- 48 (1) That such street or part thereof is unsafe for vehicular traffic, and it is in the
49 public interest to make such improvement, or
- 50 (2) That it is in the public interest to connect two streets, or portions of a street
51 already improved, or

1 (3) That it is in the public interest to widen a street, or part thereof, that is
2 already improved, provided that assessments for widening any street or
3 portions of a street without petition shall be limited to the cost of widening
4 and otherwise improving such street in accordance with the street
5 classification and improvement standards established by the Town's
6 thoroughfare or major street plan for the particular street, or part thereof, to
7 be widened and improved under the authority granted by this Article.

8 "Section 5.3. **Street Improvement Defined.** For the purpose of this Article, the term
9 'Street Improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving,
10 repaving, the acquisition of right-of-way, and the construction or reconstruction of curb,
11 gutters, and street drainage facilities.

12 "Section 5.4. **Sidewalks; Assessment of Cost.** In addition to any authority which is now or
13 may hereafter be granted by the General Statutes to the Town for making sidewalk
14 improvements, the Town Council may order to be made or to make sidewalk improvements or
15 repairs without petition according to standards and specifications of the Town and assess the
16 total cost thereof against abutting property owners.

17 If a sidewalk is constructed on only one side of a street, the cost thereof may be assessed
18 against a property abutting on both sides of the street, unless there already exists a sidewalk, on
19 the other side of the street, the total cost of which has been assessed against the abutting
20 property.

21 "Section 5.5. **Street Lighting; Assessment of Cost.** In addition to any authority which is
22 now or may hereafter be granted by the General Statutes to the Town for making street lighting
23 improvements, the Town Council may order to be made or to make street lighting
24 improvements or repairs without petition according to standards and specifications of the Town
25 and assess the total cost thereof against abutting property owners.

26 If street lighting is constructed on only one side of a street, the cost thereof may be assessed
27 against a property abutting on both sides of the street, unless there already exists street lighting
28 on the other side of the street, the total cost of which has been assessed against the abutting
29 property.

30 "Section 5.6. **Assessment Procedure.** In ordering street, sidewalk, and lighting
31 improvements without a petition and assessing the cost thereof under authority of this Article,
32 the Town Council shall comply with the procedure provided in the General Statutes, except
33 those provisions relating to the petition of property owners and the sufficiency thereof.

34 "Section 5.7. **Effect of Assessment.** The effect of the act of levying assessments under the
35 authority of this Article shall for all purposes be the same as if assessed where levied under the
36 authority of general law."

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

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

45 (1) Any acts concerning the property, affairs, or government of public schools in
46 the Town of Indian Trail.

47 (2) Any acts of validating, confirming, approving, or legalizing official
48 proceedings, actions, contracts or obligations of any kind.

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

51 (1) Chapter 825, Session Laws of 1969.

1 (2) S.L. 2004-9.

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

4 (1) Now vested or accrued, in whole or in part, the validity of which might be
5 sustained or preserved by reference to any provisions of law repealed by this
6 act.

7 (2) Derived from, or which might be sustained or preserved in reliance upon,
8 action heretofore taken (including the adoption of ordinances or resolutions)
9 pursuant to or within the scope of any provision of law repealed by this act.

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

12 (1) The repeal herein of any act repealing such law, or

13 (2) Any provision of this act that disclaims an intention to repeal or affect
14 enumerated or designated laws.

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

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

23 **SECTION 9.** The Mayor and Town Council members serving on the date of
24 ratification of this act shall serve until the expiration of their terms or until their successors are
25 elected and qualified.

26 **SECTION 10.** If any provision of this act or the application thereof to any person
27 or circumstances is held invalid, such invalidity shall not affect other provisions or applications
28 of this act which can be given effect without the invalid provision or application, and to this
29 end the provisions of this act are declared to be severable.

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

32 **SECTION 12.** Whenever a reference is made in this act to a particular provision of
33 the General Statutes, and such provision is later amended, superseded, or recodified, the
34 reference shall be deemed amended to refer to the amended General Statute, or to the General
35 Statute which most clearly corresponds to the statutory provision which is superseded or
36 recodified.

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

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