

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 704\*

Short Title: North Cleveland Incorporation.

(Local)

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Sponsors: Senator Wellons.

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Referred to: Rules and Operations of the Senate.

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April 1, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCORPORATE THE TOWN OF NORTH CLEVELAND SUBJECT TO  
3 A REFERENDUM.

4 The General Assembly of North Carolina enacts:

5 Section 1. A Charter for the Town of North Cleveland is enacted to read:

6 "CHARTER OF THE TOWN OF NORTH CLEVELAND.

7 "CHAPTER I.

8 "INCORPORATION AND CORPORATE POWERS.

9 "Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town  
10 of North Cleveland are a body corporate and politic under the name 'Town of North  
11 Cleveland'. Under that name they shall have all the powers, duties, rights, privileges, and  
12 immunities conferred and imposed on cities by the general law of North Carolina.

13 "CHAPTER II.

14 "CORPORATE BOUNDARIES.

15 "Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the  
16 corporate boundaries of the Town of North Cleveland are as follows:

17 Lying and being in the County of Johnston, State of North Carolina and being more  
18 described as follows:

19 Beginning at a point located where the eastern right of way of Interstate 40 intersects  
20 the centerline of Swift Creek, said point being the southwestern corner of the property of

1 B. T. Henderson, pursuant to deed book 737 page 235 of the Johnston County Public  
2 Registry ("The Registry"); thence along the centerline of Swift Creek in an easterly  
3 direction along the line of B. T. Henderson to an iron stake in the centerline of Swift  
4 Creek, said point being the southwestern corner of Lot 1 of the Junius Johnson Division,  
5 the property of Charlie Johnson, pursuant to deed book 492 page 420 of the Registry;  
6 thence continuing with the run of Swift Creek in an easterly direction along the line of  
7 Johnson to pointers on Swift Creek, said point being the southwestern corner of Lot 2 of  
8 the Junius Johnson Division and Being the property of Madge G. Johnson pursuant to  
9 deed book 1077 page 428 of the Registry; thence continuing with the run of Swift Creek  
10 along the line of Johnson to a marked ironwood tree, said point being the southwestern  
11 corner of Lot 3 of the Junius Johnson Land Division and the property of C. R. Trotter  
12 pursuant to deed book 905 page 683 of the Registry; thence continuing with the run of  
13 Swift Creek along the Trotter line to a marked elm, said point being the southwestern  
14 corner of Lot 4 of the Junius Johnson Land Division and the property of Madge Getta  
15 Johnson pursuant to deed book 1101 page 474 of the Registry; thence continuing with the  
16 run of Swift Creek along the line of Johnson to a sweet gum tree said point being the  
17 Southwest corner of Lot 5 of the Junius Johnson Land Division and the property of  
18 Madge Johnson, thence continuing with the run of Swift Creek, along the line of Johnson  
19 to a stake and pointers said point being the southwest corner of Lot 6 of the Junius  
20 Johnson Land Division, the property of Otha Jones pursuant to deed book 827 page 688  
21 of the Registry; thence with the run of Swift Creek along the line of Jones to a point in  
22 the center of Swift Creek said point being witnessed by an iron pipe on the north bank of  
23 Swift Creek as shown on plat entitled "Section One - Phase Two Old North  
24 Vineyard"(sheet 4 of 4, and 2 of 4) by Byrd Surveying, P. A. dated 2/25/97 and recorded  
25 in plat book 49 page 348 and plat book 49 page 350 of the Registry; thence continuing  
26 with the run of Swift Creek, along the line of Section One - Phase Two Old North  
27 Vineyard in a southeasterly direction to a point in the center of Swift Creek witnessed by  
28 an iron on the north bank of Swift Creek, said point being the southwestern corner of Lot  
29 5A of the Ransom Penny Division, recorded in Land Book 6 page 291, and being the  
30 property of Richard A. Marks, Jr. pursuant to deed book 1303 page 197, thence  
31 continuing with the run of Swift Creek along the line of Marks to a point in the  
32 intersection of Swift Creek and Bushy Branch said point being the southwest corner of  
33 property of Herbert and Linda M. Nelke, pursuant to deed book 1175 page 672 of the  
34 Registry; also recorded in plat book 33 page 355 of the Registry, thence continuing with  
35 the run of Swift Creek and the southern line of Nelke to a point in the intersection of  
36 Swift Creek and an old road bed said point being witnessed by an iron stake in the bank  
37 of the creek and the center of the old road bed and being the northwest corner of the  
38 property of Sie Coats, Jr. pursuant to deed book 656 page 61 of the Registry; thence  
39 continuing with the run of Swift Creek along the property line of Coats to a point in the  
40 center of Swift Creek witnessed by an iron stake on the east bank of the creek, said point  
41 being the northwest corner of the property of William Henry Ford pursuant to deed book  
42 645 page 180 of the Registry; thence continuing with the run of Swift Creek along the  
43 property line of Ford to a point in the intersection of Swift Creek and Marsh Branch said

1 point being witnessed by an iron stake on the west bank of Swift Creek and in the run of  
2 Marsh Branch, said point also being a corner of the property of Southwind Land Co. Inc.  
3 pursuant to deed book 1542 page 366 of the Registry; thence with the meanders of Marsh  
4 Branch along the property line of Southwind Land Co. Inc. to an iron stake in the run of  
5 Marsh Branch said point being the northernmost corner of South Hills Subdivision  
6 Section IX sheet 2 of 2, recorded in plat book 48 page 153 of the Registry; thence  
7 continuing with the run of Marsh Branch along the property line of South Hills Section  
8 IX to an iron stake in the run of the branch said point being the northernmost corner of  
9 the property of Jimmy L. Johnson; thence continuing with the run of the branch to a stake  
10 in the center of the branch said point being a common corner of Jimmy L. Johnson, C. M.  
11 Williams, and Dorothy Sue Hall; thence along the eastern property line of Hall (the  
12 following courses and distances: (1) North 27 degrees 30 minutes west 947 feet. (2)  
13 South 71 degrees 15 minutes west 1,000 feet. (3) South 29 degrees 10 minutes east 346  
14 feet. (4) South 71 degrees 15 minutes west, 630 feet +/-) to a point in the western margin  
15 of the right-of-way of SR 1010 Cleveland Road; thence running with the western margin  
16 of the right-of-way of SR 1010 in a southeasterly direction to a point in the western  
17 margin of the right-of-way of SR 1010, said point being the common corner of W. D.  
18 Parker and David R. Wells; thence along the line of Wells (pursuant to deed book 656  
19 page 557 of the Registry) to a iron pipe in the northern line of Southfort Subdivision  
20 Section 2 as recorded in plat book 45 page 269 of the Registry, thence along the northern  
21 property line of Southfort Subdivision north 79 degrees 16 minutes 45 seconds west  
22 754.65 feet to an iron pipe, the corner of W. D. Parker, Southfort Subdivision and David  
23 R. Wells; thence along the eastern line of Wells in a northerly direction to a corner with  
24 W. D. Parker; thence along the northern property line of David R. Wells to a point in the  
25 eastern margin of the right-of-way of Interstate 40 thence continuing along the same  
26 bearing to a point of intersection with the western margin of the right-of-way of I-40, said  
27 point being in the line of Donald Lee Johnson, pursuant to deed book 1290 page 385;  
28 thence with the western margin of the right-of-way of I-40 to the point of intersection of  
29 the western margin of the right-of-way of I-40 and the centerline of Mill Branch; thence  
30 along the run of Mill Branch, the eastern property line of Johnson to a stake at an old  
31 bridge over Mill Branch; thence continuing with the northern line of Johnson North 83  
32 degrees east 1,357.3 feet to a stake in the center of an old road, said point being a point in  
33 the line of Robert B. Creech pursuant to deed book 610 page 348; thence along the line of  
34 Creech in a northerly direction to an iron stake, said point being the southeast corner of  
35 the property of Saint Amanda Missionary Baptist Church pursuant to deed book 779 page  
36 188; thence with the line of Saint Amanda Missionary Baptist Church in a northerly  
37 direction to an iron in the southern line of William W. Whitley pursuant to deed book 600  
38 page 368; thence with the line of Whitley in an easterly direction to a point thence in a  
39 northerly direction with the eastern line of Whitley to an existing Buggy Axle, said point  
40 being the northeastern corner of the Whitley property and also the southeastern corner of  
41 the property of W. D. Parker, Jr. pursuant to deed book 1274 page 259 of the Registry;  
42 then along the eastern line of the Parker property north 4 degrees 48 minutes 33 seconds  
43 east 504.97 feet to an iron stake, said point being the northeastern corner of the Parker

1 property; thence along the northern line of the Parker property north 73 degrees 31  
2 minutes 47 seconds west 471.93 feet, thence continuing along the line of Parker North 84  
3 degrees 23 minutes 30 seconds west 375.58 feet to an iron stake on the eastern margin of  
4 the right-of-way of SR 1524; Old Drug Store Road; thence along the same bearing until it  
5 intersects with the centerline of SR 1524; thence along the centerline of SR 1524 in a  
6 southerly direction to a point in the centerline of SR 1524, said point being the northeast  
7 corner of the property of James G. Batchelor pursuant to deed book 1344 page 413 of the  
8 Registry; thence along the northern line of Batchelor north 89 degrees west 953.57 feet to  
9 an iron stake, a point in the eastern line of Thomas R. Godwin pursuant to deed book 979  
10 page 400 of the Registry; thence along the eastern line of Godwin north 6 degrees 22  
11 minutes west to an iron stake in the centerline of NC Hwy. No. 42 said point being the  
12 northeastern corner of the Godwin property and also being a point in the southern line of  
13 the property of Paul Johnson pursuant to deed book 1373 page 570 of the registry; thence  
14 along the centerline of NC Hwy. 42, the line of Johnson in a northeasterly direction to a  
15 point in the centerline of NC Hwy. 42 said point being the Southeast corner of the  
16 Johnson property; thence along the eastern line of Johnson north 31 degrees west  
17 1,048.75 feet to a point in the center of the branch, said point being the northeastern  
18 corner of the Johnson property; thence along the run of the branch and Buffalo Creek to  
19 an iron pipe the northeastern corner of the property of Wayne B. Lewter pursuant to deed  
20 book 731 page 519 of the Registry; thence along the northern line of Lewter in a  
21 northwestern direction to an iron pipe in the centerline of a branch, a point in the eastern  
22 boundary of Duchess Downs Subdivision, as surveyed by Arthur R. Denning and  
23 recorded in plat book 15 page 43 of the Registry; thence running along the branch in a  
24 northeasterly direction to an iron in the centerline of SR 1546, a point in the southern line  
25 of Robert P. Dixon pursuant to deed book 1205 page 555; Thence along the southern line  
26 of the Robert P. Dixon property to a railroad spike, said point being the southeastern  
27 corner of the Dixon property thence along the eastern property line of Dixon the  
28 following courses and distances: (1) North 21 degrees 38 minutes 38 seconds west 62.21  
29 feet. (2) North 19 degrees 47 minutes 52 seconds west 113.50 feet. (3) North 29 degrees  
30 55 minutes 36 seconds west 143.73 feet. (4) North 25 degrees 13 minutes 55 seconds  
31 west 15.59 feet to an iron pipe in the northeast corner of the property of Dixon said point  
32 also being the southeastern corner of the property J. G. Carroll; thence along the eastern  
33 line of Carroll to a point, said point being a common corner of J. G. Carroll and G. P.  
34 Sherrill also being a point in the southern line of W. Emmette Simpkins pursuant to deed  
35 book 1592 page 59; thence along the southern line of Simpkins south 88 degrees 51  
36 minutes 9 seconds west 418.34 feet to a concrete monument said point being the  
37 southeastern corner of the Lynnfield Village Subdivision; thence along the eastern  
38 boundary of Lynnfield Village the following courses and distances: (1) North 15 degrees  
39 17 minutes 11 seconds east 144.34 feet to an iron pipe as shown in plat book 29 page  
40 249. (2) North 15 degrees 17 minutes 11 seconds east 700.77 feet to an existing iron pipe  
41 as shown in plat book 27 page 117. (3) North 15 degrees 17 minutes 11 seconds east  
42 219.31 feet to an iron pipe said point being the southwestern corner of the property of  
43 Hazel S. Hatcher pursuant to deed book 966 page 653; thence along the southern line of

1 the Hatcher property south 65 degrees 13 minutes 38 seconds east 150 feet to an iron  
2 pipe; thence along the eastern line of the Hatcher property north 15 degrees 17 minutes  
3 11 seconds east 294.43 feet to a nail in the centerline of SR 1010 Cleveland Road; a point  
4 in the southern line of Lester V. Kath (pursuant to deed book 610 page 52 of the  
5 Registry); thence with the centerline of SR 1010 and the property line of Lester V. Kath  
6 52 feet in a southeasterly direction to a nail in the centerline, said point being the  
7 southeast corner of Jerry S. Boone pursuant to deed book 569 page 324; thence along the  
8 eastern line of Kath to a point said point being the northwest corner of the Boone  
9 property; thence continuing along the eastern line of Kath north 12 degrees 7 minutes 10  
10 seconds east 414.44 feet to an existing iron pipe; thence along the northern line of Kath  
11 south 81 degrees 1 minute 40 seconds west 114.35 feet to an iron pipe said point being  
12 the common corner of Lot 6 & 7 of the "Division for Heirs" Survey for Lester V. Kath  
13 and Wife Lois S. Kath by Bobby R. Lee, Dated 3/15/93; thence along the eastern line of  
14 Lot 6 north 16 degrees 12 minutes 20 seconds east 2,144.78 feet to an iron pipe a point in  
15 the southern line of lot 8 of the plat of the Kath Heirs; thence along the southern line of  
16 lot 8 south 72 degrees 16 minutes east 47.25 feet to an iron pipe said point being the  
17 southeastern corner of lot 8; thence along the eastern line of lot 8 north 12 degrees 7  
18 minutes 10 seconds east 1,428.03 feet to a concrete monument on the Wake County  
19 border; thence in a northeasterly direction along the county line to a point of intersection  
20 with the county line and the centerline of Swift Creek; thence along the run of Swift  
21 Creek to the point or place of beginning.

### 22 "CHAPTER III.

#### 23 "GOVERNING BODY.

24 "Section 3.1. **Structure of Governing Body; Number of Members.** The governing  
25 body of the Town of North Cleveland shall be the Town Council, which shall have four  
26 members, and the Mayor.

27 "Section 3.2. **Temporary Officers.** Until the initial elections of 1999 provided for  
28 by Section 4.1 of this Charter, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and  
29 \_\_\_\_\_ are hereby appointed members of the interim Town Council.  
30 They shall jointly exercise the powers granted to the governing body until their  
31 successors are elected or appointed and qualified pursuant to this Charter.

32 "Section 3.3. **Manner of Electing Town Council; Term of Office.** The qualified  
33 voters of the entire Town shall elect the members of the Town Council and, except as  
34 provided in this section, they shall serve four-year terms. In 1999, the two candidates  
35 receiving the highest number of votes shall be elected to four-year terms and the two  
36 candidates receiving the next highest number of votes shall be elected to two-year terms.  
37 In 2001 and biennially thereafter, two members shall be elected to four-year terms.

38 "Section 3.4. **Manner of Selecting Mayor; Term of Office.** The Mayor shall be  
39 selected by the Town Council from among its membership to serve at their pleasure.

### 40 "CHAPTER IV.

#### 41 "ELECTIONS.

42 "Section 4.1. **Conduct of Town Elections.** Regular municipal elections shall be held  
43 in each odd-numbered year in accordance with the uniform municipal election laws of

1 North Carolina. Elections shall be conducted on a nonpartisan basis and results  
2 determined by a plurality as provided in G.S. 163-292.

3 **"CHAPTER V.**

4 **"ADMINISTRATION.**

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

8 Section 2. From and after the effective date of this act, the citizens and  
9 property in the Town of North Cleveland shall be subject to municipal taxes levied for  
10 the year beginning July 1, 1999. For that purpose the Town shall obtain from Johnston  
11 County a record of property in the area herein incorporated which was listed for taxes as  
12 of January 1, 1999. The Town may adopt a budget ordinance for fiscal year 1999-2000  
13 without following the timetable in the Local Government Budget and Fiscal Control Act,  
14 but shall follow the sequence of actions in the spirit of the act insofar as is practical. For  
15 fiscal year 1999-2000, ad valorem taxes may be paid at par or face amount within 90  
16 days of adoption of the budget ordinance and thereafter in accordance with the schedule  
17 in N.C.G.S. 105-360. If this act is approved under Sections 3 and 4 of this act before July  
18 1, 1999, the Town may adopt a budget ordinance for fiscal year 1998-99 without  
19 following the timetable in the Local Government Budget and Fiscal Control Act, but shall  
20 follow the sequence of actions in the spirit of the act insofar as is practical.

21 Section 3. The Johnston County Board of Elections shall conduct an election  
22 on a date set by the Board, to be not less than 60 nor more than 120 days after this act  
23 becomes law, for the purpose of submission to the qualified voters of the area described  
24 in Section 2.1 of the Charter of the Town of North Cleveland the question of whether or  
25 not the area shall be incorporated as the Town of North Cleveland. Registration for the  
26 election shall be conducted in accordance with G.S. 163-288.2.

27 Section 4. In the election, the question on the ballot shall be:

28 "[ ]FOR [ ]AGAINST

29 **INCORPORATION OF THE TOWN OF NORTH CLEVELAND."**

30 Section 5. In the election, if a majority of the votes are cast "For incorporation  
31 of the Town of North Cleveland", Sections 1 through 2 of this act shall become effective  
32 on the date that the Johnston County Board of Elections certifies the results of the  
33 election. Otherwise, those sections shall have no force and effect.

34 Section 6. This act is effective when it becomes law.