

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS75143-LMx-62 (3/3)

Short Title: Incorporate Swannanoa.

(Local)

Sponsors: Senator Nesbitt.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO INCORPORATE THE TOWN OF SWANNANOA.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** A Charter for the Town of Swannanoa is enacted to read:

5 "CHARTER OF THE TOWN OF SWANNANOA.

6 "ARTICLE I. INCORPORATION AND CORPORATE POWERS.

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

11 "ARTICLE II. CORPORATE BOUNDARIES.

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

14 "ARTICLE III. GOVERNING BODY.

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

17 "Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial
18 election in May 2010 provided for by Section 4.2 of this Charter, David Alexander, Geoffrey
19 Bullock, Carol Groben, Jane Hansel, Ron Hillabrand, Linda Kinney, and Mike Tolley are
20 appointed council members of the Town of Swannanoa, and they shall possess and exercise the
21 powers granted to the governing body until their successors are elected or appointed and
22 qualified pursuant to this Charter. The temporary officers shall elect persons to serve as Interim
23 Mayor and Interim Mayor Pro Tempore. If any person named in this section is unable to serve,
24 the remaining temporary officers shall, by majority vote, appoint a person to serve until the
25 initial election is held in May 2010.

26 "Section 3.3. **Manner of Electing Town Council; Term of Office.** The qualified voters of
27 the entire Town shall elect the members of the Town Council, and except as provided in this
28 section, they shall serve four-year terms. In 2010, the three candidates receiving the highest
29 numbers of votes shall be elected to four-year terms, and the two candidates receiving the next
30 highest numbers of votes shall be elected to two-year terms. In 2012, and quadrennially
31 thereafter, two members shall be elected to four-year terms. In 2014, and quadrennially
32 thereafter, three members shall be elected to four-year terms. Vacancies on the Town Council
33 shall be filled in accordance with G.S. 160A-63.

34 "Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The qualified voters of
35 the entire Town shall elect the Mayor. In May 2010 and biennially thereafter, the Mayor shall



1 be elected for a term of two years. The Mayor shall be the official head of Town government
2 and shall preside at all meetings of the Town Council. The Mayor shall exercise the powers and
3 duties conferred upon him by the general laws of the State of North Carolina, the provisions of
4 this Charter, or the Town Council. The Mayor shall have the right to vote only when there are
5 equal numbers of votes in the affirmative and in the negative.

6 "Section 3.5. **Manner of Electing Mayor Pro Tempore; Term of Office; Duties.** The
7 Mayor Pro Tempore shall be elected from among the members of the Town Council at the
8 organizational meeting after the initial election in May 2010 and shall serve for a term of two
9 years. The Mayor Pro Tempore shall act in the absence or disability of the Mayor. If the Mayor
10 and Mayor Pro Tempore are both absent from a meeting of the Town Council, the members of
11 the Town Council present may elect a temporary chair to preside in the absence. The Mayor
12 Pro Tempore shall have the right to vote on all matters before the Town Council and shall be
13 considered a member of the Town Council for all purposes.

14 "ARTICLE IV. ELECTIONS.

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

17 "Section 4.2. **Date of Election.** Elections shall be conducted in accordance with Chapter
18 163 of the General Statutes, with the first regular municipal election to be held May 4, 2010.

19 "Section 4.3. **Special Elections and Referenda.** Special elections and referenda may be
20 held only as provided by general law or applicable local acts of the General Assembly.

21 "ARTICLE V. ORGANIZATION AND ADMINISTRATION.

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

24 "Section 5.2. **Town Manager.** The Town Council shall appoint a Town Manager who shall
25 be responsible for the administration of all departments of the Town government, except as
26 otherwise directed by the Town Council. The Town Manager shall have all the powers and
27 duties conferred by general law, except as expressly limited by the provisions of this Charter,
28 and the additional powers and duties conferred by the Town Council, so far as authorized by
29 general law. As chief administrator of the Town, the Town Manager shall have the power to
30 appoint, suspend, and remove all Town officers, department heads, and employees, except the
31 Town Attorney, Town Clerk, and any other official whose appointment or removal is vested in
32 the Town Council by this Charter or by general law. Neither the Town Council nor any of its
33 members shall take part in the appointment or removal of officers or employees in the
34 administrative service of the Town of Swannanoa, except as provided by this Charter.

35 "Section 5.3. **Town Attorney.** The Town Council shall appoint a Town Attorney licensed
36 to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the
37 Town, advise Town officials, and perform other duties as required by law or as directed by the
38 Town Council. The Town Attorney shall serve at the pleasure of the Town Council.

39 "Section 5.4. **Town Clerk.** The Town Council shall appoint a Town Clerk who shall
40 perform duties as required by law or as directed by the Town Council. The Town Clerk shall
41 serve at the pleasure of the Town Council.

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

47 "Section 5.6. **Consolidation of Functions.** Where positions are not incompatible, the Town
48 Council may combine in one person the powers and duties of two or more officers created or
49 authorized by this Charter.

50 "ARTICLE VI. TAXES AND BUDGET ORDINANCE.

1 "Section 6.1. **Powers of the Town Council.** The Town Council may levy those taxes and
2 fees authorized by general law. An affirmative vote equal to a majority of all the members of
3 the Town Council shall be required to change the ad valorem tax rate from the rate established
4 during the prior fiscal year.

5 "Section 6.2. **Commencement of Tax Collection.** From and after July 1, 2009, the citizens
6 and property in the Town of Swannanoa shall be subject to municipal taxes levied for the year
7 beginning July 1, 2009, and for that purpose the Town shall obtain from Buncombe County a
8 record of property in the area herein incorporated which was listed for property taxes as of
9 January 1, 2009.

10 "Section 6.3. **Budget.** The Town may adopt a budget ordinance for fiscal year 2009-2010
11 without following the timetable in the Local Government Budget and Fiscal Control Act, but
12 shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year
13 2009-2010, ad valorem taxes may be paid at par or face amount within 90 days of adoption of
14 the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360 as if the
15 taxes had been due and payable on September 1, 2009.

16 "ARTICLE VII. ORDINANCES.

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

20 "ARTICLE VIII. MISCELLANEOUS PROVISIONS.

21 "Section 8.1. **Expenses.** The entities sponsoring incorporation shall be entitled to recover
22 from the Town expenses of sponsoring incorporation in the amount of five hundred dollars
23 (\$500.00) or greater, provided that the entities seeking recovery shall submit written requests
24 for reimbursement and shall be subject to annual audit. The Town Council may reimburse
25 expenses after the first full fiscal year. To receive reimbursement, all requests must be
26 submitted prior to the end of the second fiscal year."

27 **SECTION 2.** The Buncombe County Board of Elections shall conduct an election
28 on November 3, 2009, for the purpose of submission to the qualified voters for the area
29 described in Section 2.1 of the Charter of the Town of Swannanoa the question of whether or
30 not the area shall be incorporated as the Town of Swannanoa. Registration for the election
31 shall be conducted in accordance with G.S. 163-288.2.

32 **SECTION 3.** In the election, the question on the ballot shall be:

33 "[] FOR [] AGAINST

34 Incorporation of the Town of Swannanoa."

35 **SECTION 4.** In the election, if a majority of the votes are cast "For the
36 Incorporation of the Town of Swannanoa," Section 1 of this act shall become effective on the
37 date that the Buncombe County Board of Elections certifies the results of the election.
38 Otherwise, Section 1 of this act shall have no force and effect.

39 **SECTION 5.** This act is effective when it becomes law.