

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 570  
Second Edition Engrossed 4/1/09  
House Committee Substitute Favorable 6/25/09

Short Title: Indian Trail Charter Revised.

(Local)

Sponsors:

Referred to:

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 to  
6 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 continue  
10 to be a body politic and corporate under the name and style of "Town of Indian Trail" and shall  
11 continue to be vested with all property and rights which now belong to the Town; shall have  
12 perpetual succession; may have a common seal and alter and renew the same at pleasure; may  
13 sue and be sued; may contract, may acquire and hold all such property, real and personal, as  
14 may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise  
15 acquired by it, and may from time to time hold or invest, sell or dispose of the same; and shall  
16 have and may exercise in conformity with this Charter all municipal powers, functions, rights,  
17 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 of this  
21 Charter. The Mayor shall be the official head of the Town government and shall preside at all  
22 meetings of the Town Council. When there is an equal division upon any question, or in the  
23 appointment of officers, by the Council, the Mayor shall determine the matter by his own vote,  
24 and shall vote in no other case. The Mayor shall exercise such powers and perform such duties  
25 as are or may be conferred upon him by the general laws of North Carolina, by this Charter,  
26 and by the ordinance of the Town. The Town Council shall choose one of its number to act as  
27 Mayor Pro Tempore, and he shall perform the duties of Mayor in the Mayor's absence or  
28 disability. The Mayor Pro Tempore as such shall have no fixed term of office but shall serve in  
29 such capacity 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 of this Charter.

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

33 (a) Beginning with the regular election in 1971, the Mayor and the members of the  
34 Town Council shall serve for terms of four years beginning the day and hour of the  
35 organizational meeting following their election, as established by ordinance in accordance with  
36 this Charter, 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 a member  
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 lesser 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) Except as otherwise provided by the General Statutes, the affirmative vote of a  
15 majority of the members of the Town Council shall be necessary to adopt any ordinance or any  
16 resolution or motion having the effect of an ordinance. Except as otherwise provided by the  
17 General Statutes, all other matters to be voted upon shall be decided by a majority vote of those  
18 present and voting.

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

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

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

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

38 (b) The Town Manager shall:

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

50 "Section 3.12. **Town Attorney.** The Council shall appoint a Town Attorney licensed to  
51 practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town,

1 advise Town Officials, be present at all meetings of the Town Council, and perform other  
2 duties as required by law or as the Council may prescribe. The Town Attorney shall serve at the  
3 pleasure of the Council and shall receive compensation as the Council shall determine.

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

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

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

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

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

25 "ARTICLE IV. ELECTION PROCEDURE.

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

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

37 "Section 4.3. **Regulation of Elections.** The method of election of the Mayor and Town  
38 Council shall be the plurality method to be conducted as provided in G.S. 163-292."

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

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

- 47 (1) Any acts concerning the property, affairs, or government of public schools in  
48 the Town of Indian Trail.
- 49 (2) Any acts of validating, confirming, approving, or legalizing official  
50 proceedings, actions, contracts, or obligations of any kind.

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

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

4           (2) S.L. 2004-9.

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

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

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

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

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

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

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

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

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

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

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

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

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

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