

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-66
HOUSE BILL 221

AN ACT TO REVISE AND CONSOLIDATE THE CHARTERS OF THE TOWN OF
YAUPON BEACH AND THE TOWN OF LONG BEACH AND ESTABLISH A
CHARTER FOR THE CONSOLIDATED TOWN OF OAK ISLAND.

The General Assembly of North Carolina enacts:

Section 1. The charters of the Town of Yaupon Beach and the Town of Long Beach are hereby revised and consolidated into the Charter for the Town of Oak Island to read as follows:

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Sec. 1.1. **Incorporation and General Powers.** The Town of Oak Island shall be a body politic and corporate under the name of the "Town of Oak Island", and shall be vested with all property and rights which now belong to the Towns of Yaupon Beach and Long Beach; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

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

"Sec. 1.3. **Enumerated Power Not Exclusive.** The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Oak Island shall have and may exercise all applicable powers which are granted to municipal corporations by the general laws of North Carolina and all powers which are granted by this Charter.

"Sec. 1.4. **Referendum Not Required.** Notwithstanding any other provision of law, the consolidation of the Town of Yaupon Beach and the Town of Long Beach into the Town of Oak Island shall not require a referendum but shall be governed by the provisions of this act.

"ARTICLE II. CORPORATE BOUNDARIES.

"Sec. 2.1. **Existing Corporate Boundaries.** The corporate limits of the Town of Oak Island shall be the combined corporate limits of the Town of Yaupon Beach and the Town of Long Beach existing at the time of enactment of this Charter and the effective date of consolidation, as the same are now or hereafter may be constituted pursuant to law. An official map or description of the Town, showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon changes, alteration of the corporate limits pursuant to law, the appropriate changes to the official map or description of the Town shall be made.

"Sec. 2.2. **Pending Annexations.** Matters pertaining to the annexation of property instituted by the Town of Yaupon Beach under an ordinance adopted September 14, 1998, shall become the responsibility of the consolidated Town of Oak Island as if begun originally by the Town of Oak Island. Any annexation action instituted or pending by the Town of Yaupon Beach and Town of Long Beach prior to the effective date of consolidation into the Town of Oak Island shall be as if instituted by the Town of Oak Island and the prior actions are hereby ratified. This section shall not be construed as prohibiting any annexation proceedings occurring between the date of enactment of this act and the effective date of consolidation.

"Sec. 2.3. **Extension of Corporate Boundaries.** All extensions of the corporate boundaries shall be governed by the General Statutes.

"ARTICLE III. TRANSITIONAL PROVISIONS.

"Sec. 3.1. **Action Prior to Consolidation.** (a) The following actions by the governing bodies of the Town of Yaupon Beach and the Town of Long Beach under subsections (b) and (c) of this section are authorized prior to the effective date of consolidation.

(b) The Town of Yaupon Beach and the Town of Long Beach shall take whatever action is necessary to assure delivery of services as of the effective date of consolidation of the two Towns into the Town of Oak Island. This includes effecting any interim planning, work assignments, and coordination required to effect a consolidated workforce and support operation as of the effective date of consolidation.

(c) The Town of Yaupon Beach and the Town of Long Beach shall take necessary action to consolidate accounting and budgeting systems to effect the consolidation of the Towns by the effective date of consolidation. Notwithstanding other provisions of the Local Government Budget and Fiscal Control Act, the Towns may prepare a budget for the consolidated Town of Oak Island in a manner and schedule agreed to by both Towns. Adoption of a budget for the consolidated Town of Oak Island shall be approved by both governing bodies prior to the effective date of consolidation and shall be effective on the date of consolidation. Audits of existing Town accounts shall be performed as of the end of the last fiscal year and prior to consolidation.

"Sec. 3.2. **Effective Date of Consolidation; Status of Governing Bodies.** Subject to the conditions and provisions of this act, the Town of Yaupon Beach and the Town of Long Beach are consolidated into the Town of Oak Island effective at 12:01 a.m., on July 1, 1999. The governing body of the Town of Oak Island will be the Interim Town

Council and subsequent Councils as prescribed in this act. The terms of office of the governing bodies of the Town of Yaupon Beach and the Town of Long Beach will cease as of 12:00 midnight on June 30, 1999.

"Sec. 3.3. **Operational Procedures Upon Consolidation.** Upon the date of consolidation of the Town of Yaupon Beach and the Town of Long Beach into the Town of Oak Island:

- (1) All property, real and personal and mixed, including accounts receivable, belonging to the Town of Yaupon Beach and the Town of Long Beach shall vest in, belong to, and be the property of the Town of Oak Island. The governing body of the Town of Oak Island will take such actions and execute such documents as will carry into effect the provisions and the intent of this section;
- (2) All judgments, liens, rights of liens, and causes of action of any nature in favor of the Town of Yaupon Beach and the Town of Long Beach shall vest in and remain and inure to the benefit of the Town of Oak Island;
- (3) All taxes, assessments, water or sewer charges, and any other charges or fees, owing to the Town of Yaupon Beach and the Town of Long Beach shall be owed to and collected by the Town of Oak Island;
- (4) All actions, suits, and proceedings pending against, or having been instituted by the Town of Yaupon Beach and the Town of Long Beach shall not be abated by the legislative act allowing consolidation, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if consolidation had not occurred, and the Town of Oak Island shall be a party to all such actions, suits, and proceedings in the place and stead of the Town of Yaupon Beach and the Town of Long Beach and shall pay or cause to be paid any judgments rendered against the Town of Yaupon Beach and the Town of Long Beach, its governing board and officials acting in their official capacity, in such actions, suits, or proceedings. No new process need be served in any such action, suit, or proceeding;
- (5) All obligations of the Town of Yaupon Beach and the Town of Long Beach, including outstanding indebtedness, shall be assumed by the Town of Oak Island and all such obligations and outstanding indebtedness are hereby constituted obligations and indebtedness of the Town of Oak Island and the financial resources of the Town of Oak Island shall be deemed to be pledged for the punctual payment of all such obligations and indebtedness;
- (6) All ordinances of the Town of Yaupon Beach and the Town of Long Beach shall continue in full force and effect within the area to which they apply until the effective date of consolidation as ordinances until modified by the Town of Oak Island governing body to be effective uniformly throughout the consolidated corporate limits and, where applicable, extraterritorial jurisdiction;

- (7) All franchises heretofore granted by the Town of Yaupon Beach and the Town of Long Beach which are still in force shall continue as valid franchises of the Town of Oak Island for purposes granted within the area formerly comprising the Town of Yaupon Beach and the Town of Long Beach until modified by the Town of Oak Island governing body to be effective uniformly throughout the consolidated corporate limits of the Town of Oak Island;
- (8) The Town of Oak Island shall assume responsibility for all current and future liabilities of the Town of Yaupon Beach and the Town of Long Beach for unemployment insurance benefit charges under G.S. 96-9(f)(1);
- (9) Extraterritorial Jurisdiction (ETJ) areas of the Town of Yaupon Beach and the Town of Long Beach under Article 19 of Chapter 160A of the General Statutes in effect on the date of consolidation shall be extraterritorial areas of the Town of Oak Island;
- (10) All property that had a tax situs in the Town of Yaupon Beach and the Town of Long Beach on January 1, 1999, shall be considered to have a tax situs in the Town of Oak Island for the appropriate fiscal year, and any property properly listed for taxation in the Town of Yaupon Beach and the Town of Long Beach is properly listed for the Town of Oak Island; and
- (11) Prior local acts that apply to the Town of Yaupon Beach and the Town of Long Beach, that are not inconsistent with the provisions of this act, shall remain in force in the consolidated Town of Oak Island from and after the date of consolidation.

"ARTICLE IV. MAYOR AND TOWN COUNCIL.

"Sec. 4.1. **Interim Mayor and Council and Succession of Interim Council Members and Mayors.** (a) Upon enactment of this act and on the effective date of consolidation, an interim Town Council shall serve until elections are held in accordance with provisions of this Charter. The following individuals are hereby named to serve as the Interim Council: Linda W. Franklin, Roy R. Johnson, Richard D. Marshall, William S. Smith, Martin John Wozniak, Kevin M. Bell (or the person appointed to succeed him on the Long Beach Town Council), Horace Collier, James H. Locke, H. Michael Oxford, Mary B. Snead, J.K. Somers; Joan P. Altman, Co-Mayor, and Dorothy Kelly, Co-Mayor. The succession of Mayor and Council Member positions shall occur in a rotation prescribed as follows:

Elected Officials July 1999 - November 1999			
Town Area	Seat	Name	Term Expires
Long Beach	Co-Mayor	Altman(or successor)	2001
Yaupon Beach	Co-Mayor	Kelly(or successor)	2001
Yaupon Beach	Council Member	Smith(or successor)	2001
Yaupon Beach	Council Member	Wozniak(or successor)	2001
Long Beach	Council Member	Bell(or successor)	2001
Long Beach	Council Member	Somers(or successor)	2001
Long Beach	Council Member	Locke(or successor)	2001
Yaupon Beach	Council Member	Franklin(or successor)	1999

Yaupon Beach	Council Member	Marshall(or successor)	1999
Yaupon Beach	Council Member	Johnson(or successor)	1999
Long Beach	Council Member	Oxford(or successor)	1999
Long Beach	Council Member	Collier(or successor)	1999
Long Beach	Council Member	Snead(or successor)	1999

(b) November 1999 Election: Two Council Member seats will be elected, one from Yaupon Beach and one from Long Beach. This preserves equal representation. From November 1999 on, there will be eight Council Members. Mayor Altman will serve until November 2001.

Elected Officials November 1999 - November 2001

Town Area	Seat	Name	Term Expires
At Large	Mayor	Altman	2001
Yaupon Beach	Mayor Pro Tempore	Kelly	2001
Yaupon Beach	Council Member	Smith	2001
Yaupon Beach	Council Member	Wozniak	2001
Yaupon Beach	Council Member	Elected 1999	2003
Long Beach	Council Member	Bell(or successor)	2001
Long Beach	Council Member	Somers	2001
Long Beach	Council Member	Locke	2001
Long Beach	Council Member	Elected 1999	2003

(c) November 2001 Election: Two Council Members from Long Beach will be elected to four-year terms. Two Council Members from Yaupon Beach will be elected to four-year terms. One Council Member from Long Beach will be elected to a two-year term. One Council Member from Yaupon Beach will be elected to a two-year term. The Mayor will be elected at large for a two-year term. The Mayor Pro Tempore will be elected by Council Members at December 2001 Town Council meeting.

Elected Officials November 2001 - November 2003

Town Area	Seat	Name	Term Expires
At Large	Mayor	Elected 2001	2003
Yaupon Beach	Council Member	Elected 1999	2003
Yaupon Beach	Council Member	Elected 2001	2003
Yaupon Beach	Council Member	Elected 2001	2005
Yaupon Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 1999	2003
Long Beach	Council Member	Elected 2001	2003
Long Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005

(d) November 2003 Election: Four Council Members elected at large to four-year terms. Mayor elected at large to two-year term.

Elected Officials November 2003 - November 2005

Town Area	Seat	Name	Term Expires
At Large	Mayor	Elected 2003	2005
Yaupon Beach	Council Member	Elected 2001	2005
Yaupon Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005
At Large	Council Member	Elected 2003	2007
At Large	Council Member	Elected 2003	2007

At Large	Council Member	Elected 2003	2007
At Large	Council Member	Elected 2003	2007

(e) November 2005 Election: Four Council Members elected at large to four-year terms. Mayor elected at large to two-year term. Beginning in November 2005, all seats will be elected at large.

"Sec. 4.2. **Composition of Town Council.** The Town Council shall consist of eight members to be elected by the qualified voters of the Town at large in the manner provided by Article IV.

"Sec. 4.3. **Terms; Qualifications; Vacancies.** (a) The members of the Town Council shall serve for terms of four years, beginning the day and hour of the organizational meeting following their election, as established by ordinance with this Charter; provided, they shall serve until their successors are elected and qualify.

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

(c) If any elected Town Council members shall refuse to qualify, or if there shall be any vacancy in the Town Council after election and qualification, the remaining members of the Council shall by majority vote appoint some qualified person to serve for the unexpired term. Any Town Council member so appointed shall have the same authority and powers as if regularly elected.

"Sec. 4.4. **Mayor and Mayor Pro Tempore.** Beginning with the regular municipal election following succession of the Interim Council as provided by this act, and every two years thereafter, there shall be elected a Mayor by the qualified voters of the Town voting at large. The Mayor shall serve for a term of two years. A vacancy in the office of Mayor shall be filled for the unexpired term by a person appointed by the Town Council. The Mayor shall take the oath of office before entry upon the duties of his office. Candidates for Mayor shall file a notice of candidacy as is required by candidates for Town Council.

The Mayor shall be the official head of the Town government, shall preside at all meetings of the Town Council, but shall have the right to vote when there are equal numbers of votes in the affirmative and in the negative. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Town Council shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Town Council.

"Sec. 4.4. **Compensation of Mayor and Town Council Members.** The Mayor and Town Council shall receive for their services such salary and compensation as the Town Council shall determine in accordance with the General Statutes.

"Sec. 4.5. **Organization of Town Council; Oaths of Office.** The Town Council shall meet and organize for the transaction of business at a time established by the General Statutes. Before entering upon their offices, each Town Council member shall take, subscribe, and have entered upon the minutes of the Town Council the following

oath of office: "I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of Town Council member, on which I am about to enter, according to my best skill and ability; so help me, God."

"Sec. 4.6. **Meetings of Town Council.** (a) The Town Council shall fix suitable times for its regular meeting, which shall be as often as once monthly. Special meetings may be held on the call of the Mayor or a majority of the Town Council members, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

(b) All meetings of the Town Council shall be open to the public. The Town Council shall not by closed session or otherwise formally consider or vote upon any question in private session.

"Sec. 4.7. **Quorum; Votes.** (a) A majority of the members elected to the Town Council shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

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

"Sec. 4.8. **Ordinances and Resolutions.** The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The yeas and nays shall be taken upon all ordinances and resolutions and entered upon the minutes of the Town Council. The enacting clause of all ordinances shall be "Be it ordained by the Town Council of the Town of Oak Island." All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE V. ELECTION PROCEDURE.

"Sec. 5.1. **Regular Municipal Elections.** At the regular municipal election to be held following the succession of the Interim Council, and every two years thereafter, four members of the Town Council shall be elected to serve for four-year terms.

"Sec. 5.2. **Voting.** Election of the Mayor and Town Council member shall be by the nonpartisan plurality election method prescribed by G.S. 163-192, and shall be conducted as provided by General Statutes.

"Sec. 5.3. **Regulation of Elections.** All municipal elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections, except as otherwise herein provided.

"ARTICLE VI. TOWN MANAGER.

"Sec. 6.1. **Appointment; Compensation.** The Town Council shall appoint an officer whose title shall be Town Manager and who shall be the chief executive officer of the Town and the head of the administrative branch of the Town government. The Town Manager shall be chosen by the Town Council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or

knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. At the time of his appointment he need not be a resident of the Town, but shall reside therein during his tenure of office. No person elected as a member of the Town Council shall be eligible for appointment as Town Manager until one year shall have elapsed following the expiration of the term for which he was elected. The Town Manager shall serve at the pleasure of the Town Council and shall receive such salary as the Town Council shall fix. In case of the absence or disability of the Manager, the Town Council may designate a qualified administrative officer of the Town to perform the duties of the Manager during such absence or disability.

"Sec. 6.2. **Chief Administrator.** The Manager shall be the chief administrator of the Town. The Manager shall be responsible to the Council for administering all municipal affairs placed in his charge by them, and shall have the following powers and duties:

- (1) The Manager shall appoint and suspend or remove all city officers and employees not elected by the people and whose appointment or removal is not otherwise provided for by law, except the Town Attorney, in accordance with such general personnel rules, regulations, policies, or ordinances as the Council may adopt. Before appointing or removing officers or department heads he shall consult with Council, but retain the authority to take whatever personnel action he deems proper.
- (2) The Manager shall direct and supervise the administration of all departments, offices, and agencies of the city, subject to the general direction and control of the Council, except as otherwise provided by law. No member of Council shall direct or request the appointment of any person to, or removal from, office by the Town Manager; nor give orders or directions to any subordinate of the Town Manager, either publicly or privately, without the permission of the Town Manager. On the other hand, members of Council shall be free to make work-related inquiries of any employee, to be available for discussion, and to bring to the attention of the Town Manager any facts of which he may not be aware which may require remedial action.
- (3) The Manager shall attend all meetings of the Council and recommend any measures that he deems expedient.
- (4) The Manager shall see that all laws of the State, the Town Charter, and the ordinances, resolutions and regulations of the Council are faithfully executed within the Town.
- (5) The Manager shall prepare and submit the annual budget and capital program to the Council.
- (6) The Manager shall annually submit to the Council and make available to the public a complete report on the finances and administrative activities of the Town as of the end of the fiscal year.

- (7) The Manager shall make any other reports that the Council may require concerning the operations of the Town departments, offices, and agencies subject to his direction and control.
- (8) The Manager shall perform any other duties that may be required or authorized by the Council.

"ARTICLE VII. TOWN ATTORNEY.

"Sec. 7.1. **Appointment; Qualification; Term; Compensation.** The Town Council 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 Town Council and shall receive such compensation as the Town Council shall determine.

"Sec. 7.2. **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, Town Council, Town Manager, 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 Town Council; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VIII. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Sec. 8.1. **Town Clerk.** The Town Manager may appoint a Town Clerk to keep a journal of the proceedings of the Town Council 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 Manager may direct.

"Sec. 8.2. **Town Tax Collector.** The Town Manager 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.

"Sec. 8.3. **Consolidation of Functions.** The Town Manager may, in his discretion, consolidate the offices of Town Clerk and Town Tax Collector, or may assign the functions of any one of these offices to the holder or holders of any other of these offices. The Town Manager may also, in his discretion, himself perform all or any part of the functions of any of the named offices, in lieu of appointing another person to perform the same.

"ARTICLE IX. FINANCE.

"Sec. 9.1. **Issuance of Bonds.** The Town may issue bonds for the purposes and in the manner prescribed by the General Statutes relating to the issuance of bonds by municipalities.

"Sec. 9.2. **Purchases and Contracts.** Purchases of apparatus, supplies, material, and equipment, and contracts for construction or repair work shall be made in accordance with the General Statutes relating thereto.

"ARTICLE X. TITLE TO PROPERTIES.

"Sec. 10.1. **Title to Properties Used for Certain Purposes.** In the absence of any contracts with the Town in relation to the lands used or occupied by it for the purposes of streets, sidewalks, alleys, or other public works of the Town signed by the owner thereof or his agent, it shall be conclusively presumed that said land has been granted to the Town by the owner or owners, and the Town shall have good right and title thereto and shall have, hold, and enjoy the same. Unless the owner or owners of said land, or those claiming under them, shall make claim or demand in writing addressed to the Town Council within two years following the date when such land was taken, he or they shall be forever barred from recovering such land or having any compensation therefor; provided, nothing herein shall affect the rights of persons under disabilities until two years following removal thereof.

Section 2. Effective July 1, 1999, the Alcoholic Beverage Control Boards of the Town of Yaupon Beach and the Town of Long Beach will be consolidated into the Alcoholic Beverage Control Board of the Town of Oak Island. The Alcoholic Beverage Control Board of the Town of Oak Island shall be appointed by the Town Council of the Town of Oak Island and shall consist of three members. The Chair of the Alcoholic Beverage Control Board of the Town of Oak Island shall be appointed by the Oak Island Town Council. The assets and liabilities of the Alcoholic Beverage Control Boards of the Town of Yaupon Beach and the Town of Long Beach shall become the assets and liabilities of the Alcoholic Beverage Control Board of the Town of Oak Island as of July 1, 1999. The individual Alcoholic Beverage Control Boards of the Town of Yaupon Beach and the Town of Long Beach shall take whatever actions are necessary to effectuate the consolidation of the two Boards and Systems between the adoption of this act and July 1, 1999, so that consolidation will be accomplished on July 1, 1999.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of May, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives