

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 156
SENATE BILL 215

AN ACT TO INCORPORATE THE VILLAGE OF BALD HEAD ISLAND.

Whereas, Bald Head Island is suitably located in a subtropic environment and blessed with temperate climates from the Atlantic Ocean and is conducive to the maintenance of a comfortable life-style for permanent homes, retirement, vacations, and relaxation with an emphasis on environmental controls and a planned community; and

Whereas, the seasonal population trend is projected from the present 500 to a planned potential of 5,000 and the advantages of a municipal form of government, with modifications and limitations as specified herein is desirable to achieve their goals of a planned community; and

Whereas, notwithstanding G.S. 160A-3 et al, the specific limitations contained herein shall be construed as restrictive and not supplementary to the general law in order that the unique form of management and performance of services of the Village contained herein may be preserved; and

Whereas, the Village of Bald Head Island can serve as a model for cooperation between government and property owner representatives in efficient service and good planning without duplication in expenditures or unnecessary taxation; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Village of Bald Head Island, as described in Section 2 of this act is incorporated.

Sec. 2. The Charter of the Village of Bald Head Island is as follows:

"CHAPTER I.

"Incorporation and Corporate Powers.

"Sec. 1-1. Incorporation and corporate powers. The inhabitants of the Village of Bald Head Island are a body corporate and politic under the name of the 'Village of Bald Head Island'. As used herein the term 'Village' shall be synonymous with the word 'Town' or 'City' for purposes of North Carolina law. Under that name the Village of Bald Head Island has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina, unless specifically restricted herein.

"CHAPTER II.

"Corporate Boundaries.

"Article 1. Village Boundaries.

"Sec. 2-1. Village boundaries. Boundaries of the Village of Bald Head Island are as follows:

"BEGINNING at a point near the mouth of the Cape Fear River, being N.C. Grid Coordinates 42,000 N, 2,300,000 E; thence northerly with the eastern shoreline of the Cape Fear River, a line 600 feet more or less offshore, due North 3,000.00 feet to a point having N.C. Grid Coordinates 45,000 N, 2,300,000 E; thence continuing along a line 600 feet more or less offshore N36-52-11E 10,000.00 feet to a point in the Cape Fear River opposite the mouth of Cape Creek, having N.C. Grid Coordinates 53,000 N, 2,306,000 E; thence S33-41-24E 14,422.20 feet and along the centerline of Cape Creek to a point in Cape Creek having N.C. Grid Coordinates 41,000 N, 2,314,000 E; thence due East 2,000.00 feet to a point in the Atlantic Ocean 600 feet more or less offshore having N.C. Grid Coordinates 41,000 N, 2,316,000 E; thence along a line 600 feet more or less offshore 7,071.1 feet to a point having N.C. Grid Coordinates 34,000 N, 2,317,000 E; thence continuing along a line 600 feet more or less offshore N64-47-56W 18,788.3 feet to the point of BEGINNING, containing 3,294 acres more or less.

Bald Head Island is located in Brunswick County, North Carolina, and is accessible to the mainland by boat across the Cape Fear River and contains about 3,294 acres and is bounded by the Atlantic Ocean on the South and East and on the West by Cape Fear River and on the North by Cape Creek and an area of about 6,000 acres that has been conveyed to the State of North Carolina as a natural conservation area.

"CHAPTER III.

"Governing Body.

"Sec. 3-1. Structure of governing body; number of members.

The governing body of the Village of Bald Head Island is the Village Council which shall initially have five members consisting of a Mayor and four other members.

"Sec. 3-2. Manner of selection of Village Council. Each owner of a fee simple interest in real property within the Village of Bald Head Island shall be a member of the Bald Head Association (the Association) and as such have a vote with respect to all actions of the Association, as prescribed in the Association bylaws. In addition to any other activities of the Association as specified in its bylaws, the Association shall each year elect approximately one-third of its Board of Directors for staggered terms of three years. The said Board of Directors shall, within 60 days following the effective date of this act, appoint three Association members to serve on the Village Council of Bald Head Island. One of the members of the Council so appointed shall serve for a term of one year, one for a term of two years, and one for a term of three years. Thereafter, all appointments by the Board of Directors of the Bald Head Association shall be for a term of three years. Vacancies shall be filled by said Association.

In addition, Bald Head Island Limited, principal developer of Bald Head Island, or its successor or assigns, shall, within 60 days following the effective date of this act, appoint two Association members to serve on the Village Council. One of the members of the Council so appointed shall serve for a term of one year, and one for a term of two years. Thereafter, all appointments by Bald Head Island Limited or its successor, shall be for a term of two years. Vacancies shall be filled by said Bald Head Island Limited or its successor or assigns.

Notwithstanding the above, seven years after the effective date of this act the number of members of the Village Council to be appointed by the Board of Directors of Bald Head Association shall be increased to four (but with three-year staggered terms being maintained), and the number of appointees by Bald Head Island Limited or its successor, shall be reduced to one. Furthermore, 14 years following the effective date of this act the number of appointees to the Village Council by the Board of Directors of the Bald Head Association shall be increased to five (with three-year staggered terms maintained), and no further appointments shall be made by Bald Head Island Limited or its successor or assigns.

The appointed members of the Village Council shall annually elect from their membership one member as the Mayor, who, with the other members, shall serve as the Council. The Mayor shall have full voting rights.

The members of the Village Council shall take the same oath of office as does an elected mayor and member of a city council, and in general exercise all power and authority granted by the Constitution and laws of North Carolina to an elected governing body of a municipality, except as provided otherwise herein.

"Sec. 3-3. Form of government. The Village of Bald Head Island shall operate under the Mayor-Council plan of government as provided in G.S. 160A-155 et seq.

"Sec. 3-4. Compensation. The Mayor and Council shall receive no compensation for their services but may be reimbursed for necessary expenses.

"CHAPTER IV.

"Miscellaneous.

"Sec. 4-1. Development plan. The Village of Bald Head Island is hereby deemed to have adopted the plans of development heretofore established by Bald Head Island Limited as appears in Map Book 12, Page 1-11, 14-17, 36, 37, 39; Map Cabinet J, Page 178-184, 319; Map Cabinet I, Page 373; Map Cabinet L, Page 195; Map Cabinet M, Page 84, 85, 86; and as appears in Book 498, Page 260, Brunswick County Registry with regards to covenants and restrictions and the designation of residential, business, and commercial areas; provided, however, that the Village is also deemed to have adopted as the plan of development for that portion of the Village known as Middle Island and described in Deed Book 399 at page 448 in the Brunswick County Public Registry, the plans established by the restrictions, conditions and easements contained in the instrument recorded in Book 399 at page 448 and the plats appearing in Map Cabinet O, Page 57; and Map Cabinet N, Page 287 all in the Brunswick County Public Registry. All zoning ordinances and subdivision controls and other ordinances adopted by the Village Council shall conform with the plans of development herein referred to.

The Village Council will adopt by ordinance plans of development for the remaining part of the Village of Bald Head Island and the designation of residential, business, and commercial areas which conform to and are consistent with the plans hereafter established by Bald Head Island Limited its successors or assigns on or before December 31, 1999, which plans shall be compatible with the existing development.

The Village Council may regulate the planning, development and subdivision of land within its territorial jurisdiction as provided in G.S. 160A-360 but any such

regulations shall be consistent with the plan heretofore or hereafter established for the development of Bald Head Island up through December 31, 1999.

"Sec. 4-2. Contracts for services. a. The Village Council shall enter into contracts with the Bald Head Association and shall pay the reasonable cost thereof from appropriated Village funds, so long as said Association is legally constituted and able to perform municipal services to the fullest extent feasible for the following purposes:

- (i) Administrative services;
- (ii) General security under the direction of the Village Police Chief;
- (iii) General fire protection under the direction of the Village Fire Chief;
- (iv) General maintenance of streets, parking, parks and common area;
- (v) General building inspection and enforcement of zoning, planning and subdivision standards under the direction of the Village governing body and building inspector;
- (vi) General landscaping, appearance and aesthetic services and services for garbage, solid wastes and trash, and pest control services;
- (vii) Emergency medical and rescue services; and
- (viii) Administration of ordinances adopted by the Village Council as delegated from time to time.

If Bald Head Association shall be dissolved or reorganized or superseded by another association representative of all property owners, the Village Council shall cooperate with the successor organization to the fullest possible extent.

If any court shall declare that any of the foregoing services must be performed solely by the Village, the Village Council shall cooperate to the fullest possible extent with Bald Head Association or other associations representative of all property owners within the Village in the performance of such services.

b. The Village Council may enter into contracts with any other governmental entity, or any individual, association, or corporation to furnish services of a governmental or proprietary nature to the municipality and the municipality may furnish such services to inhabitants or groups within the municipality on a reciprocal basis for reasonable compensation.

c. Services which may be performed or provided on a reciprocal contract basis may include, but are not limited to, law enforcement, fire protection, sanitary services, emergency medical service, building inspection, accounting and administrative services.

d. The Village Council may enter into contracts and franchises for all forms of utility services.

e. The provisions of 4-2(a), (b) and (c) are designed to give the Village Council an alternative means of carrying out municipal functions through the most efficient and reasonable means.

"Sec. 4-3. Statutory modifications. a. The Village Council may regulate the speed and operation of motorboats and control noise and waste from powerboats and sailboats within the Village jurisdiction to preserve the tranquility and environment of Bald Head Island.

b. The Village Council may establish and maintain streets in a manner to preserve aesthetic considerations and streets need not be opened or constructed to the

standard width or requirements for general public roads in the State, and no street shall be under the authority of the State Department of Transportation.

c. The Village Council may construct, reconstruct, plant and maintain sand dunes and regulate access to and across dunes to prevent or repair damage to dunes so as to provide protection against erosion or overwash.

d. The Village Council may by ordinance establish standards of dress, conduct and decorum on the beaches of Bald Head Island.

e. In the interest of the health, safety and aesthetic enjoyment of the residents and visitors, the Village may regulate the size, weight and engine or motor or power characteristics of all vehicles or conveyances in use within the municipal boundaries.

f. The provisions of General Statutes Chapter 18B apply to the Village.

g. G.S. 18B-101 is amended by adding a new subdivision (11a) to read as follows:

'(11a) "Off Shore Resort" means an incorporated village with no access to the mainland by public street, highway, or bridge.'

h. G.S. 18B-603 is amended by adding a new subsection (f1) to read as follows:

'(f1) Permits for Off Shore Resorts - The Commission may issue the permits listed in G.S. 18B-1001 to qualified persons and establishments located within an Off Shore Resort, without approval at an election. If an Off Shore Resort does not have an ABC store located within its corporate limits, the mixed beverages purchase-transportation permit authorized by G.S. 18B-404(b) shall be issued by the local board operating the store closest to the Off Shore Resort.'

"CHAPTER V.

"Taxation.

"Sec. 5-1. Budget. a. The newly incorporated Village of Bald Head Island is authorized to adopt a budget and levy property taxes for any portion of the 1984-85 fiscal year during which it is incorporated, and for every fiscal year thereafter.

b. In adopting the budget and levying taxes for a portion of fiscal year 1984-85 and for fiscal year 1985-86 the Village Council need not follow the schedule of action set forth in the Local Government Budget and Fiscal Control Act, but shall observe the sequence of actions in the spirit of the act insofar as is practical and in future budget years, the Village Council shall follow the sequence of action in the Local Government Budget and Fiscal Control Act insofar as is practical and consistent with this municipal charter.

c. In adopting its initial and all subsequent budgets, the Village Council will consult with and coordinate its budgetary actions with those of the Bald Head Association in order to prevent duplication of services and assessments.

"Sec. 5-2. Limitation. In order to avoid duplication of services and to develop a model for cooperation between municipal government and an association representative of property owners, the Village Council may not levy property taxes for purposes set forth in G.S. 160A-209(c) that exceed one dollar and fifty cents (\$1.50) on the one hundred dollars (\$100.00) appraised value of property subject to taxation, after taking

into account the combined cost to property owners of municipal services performed by the Village and by Bald Head Association."

Sec. 3. This act shall become effective 10 days after ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1985.