

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 773

Short Title: Bald Head Island Charter.

(Local)

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Sponsors: Representatives Redwine and Hill (Cosponsors).

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Referred to: Ways and Means.

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April 3, 1997

A BILL TO BE ENTITLED

1 AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE VILLAGE OF  
2 BALD HEAD ISLAND.  
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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 permanent and retirement residences and other buildings and structures with an emphasis on environmental controls and a planned community; and

Whereas, the Village of Bald Head Island, in company with all its residents and property owners and their representatives, is fully aware of the unique nature of Bald Head Island with its combination of structures, land, and vegetation, including the oldest standing lighthouse along the coast of the State and approximately 172 acres of publicly owned prime maritime forest, that exist in a delicate ecological balance requiring careful planning, nurture, and support, as evidenced in the development plan for the island; and

Whereas, Bald Head Island is solely situated between the waters of the Atlantic Ocean and the Cape Fear River and is not connected to the mainland of the State by either natural or man-made structures, necessitating a unique form of transportation unlike any other in the State; and

Whereas, the Village of Bald Head Island recognizes the inordinately large numbers of nonresident property owners and values their past contributions to the orderly and successful development of Bald Head Island; and

Whereas, while there exists no formal arrangement to continue an ongoing obligatory relationship with the nonresident property owners, the Village of Bald Head Island has long recognized such a relationship to be beneficial to all persons who have an interest in the island and the advisability of continuing to call upon nonresidents for their expertise and counsel; and

Whereas, the Village of Bald Head Island has served and will continue to serve as a model for cooperation between government and property owners and their representatives in efficient service and good planning without duplication in expenditures or unnecessary taxation; and

Whereas, Bald Head Island with its variance in seasonal population has benefited from the advantages of a municipal form of government, with the modifications and limitations as specified herein, in order to achieve its goals as a planned community; Now, therefore, The General Assembly of North Carolina enacts:

Section 1. The Charter of the Village of Bald Head Island is revised and consolidated to read as follows:

**"THE CHARTER OF THE VILLAGE OF BALD HEAD ISLAND.  
"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND  
BOUNDARIES.**

"Section 1.1. **Incorporation.** The Village of Bald Head Island, North Carolina, in Brunswick County, and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Village of Bald Head Island', hereinafter at times referred to as the 'Village'.

"Section 1.2. **Powers.** The Village shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Village of Bald Head Island specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Boundaries.** The corporate boundaries shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Village and as they may be altered from time to time in accordance with law. An official map of the Village, showing the current municipal boundaries, shall be maintained permanently in the office of the Village Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the offices of the Secretary of State, the Brunswick County Register of Deeds, and the appropriate board of elections.

**"ARTICLE II. GOVERNING BODY.**

"Section 2.1. **Village Governing Body; Composition.** The Mayor and the Village Council shall be the governing body of the Village.

"Section 2.2. **Village Council; Composition; Terms of Office.** The Council shall be composed of five members to be elected by all the qualified voters of the Village for terms of four years, or until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by the Council from among its membership, to serve for a term of two years. The Mayor shall be the official head of the Village government and preside at meetings of the Council,

1 shall have the right to vote on all matters before the Council, but shall not have the power  
2 to vote again in instances where there is an equal division on a question, and shall  
3 exercise the powers and duties conferred by law or as directed by the Council.

4 "Section 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as  
5 Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or  
6 disability, in accordance with general law.

7 "Section 2.5. **Meetings.** In accordance with general law, the Council shall establish a  
8 suitable time and place for its regular meetings. Special and emergency meetings may be  
9 held as provided by general law.

10 "Section 2.6. **Quorum; Voting Requirements.** Official actions of the Council and  
11 all votes shall be taken in accordance with applicable provisions of general law,  
12 particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

13 "Section 2.7. **Qualifications for Office; Compensation; Vacancies.** The  
14 qualifications of the Mayor and Council members shall be in accordance with general  
15 law. The Mayor and Council members shall receive no compensation for their services  
16 but may be reimbursed for ordinary and necessary expenses. Vacancies shall be filled as  
17 provided in G.S. 160A-63.

### 18 "ARTICLE III. ELECTIONS.

19 "Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be  
20 held in each odd-numbered year in accordance with the uniform municipal election laws  
21 of North Carolina. Elections shall be conducted on a nonpartisan basis and the results  
22 determined using the nonpartisan plurality method as provided in G.S. 163-292.

23 "Section 3.2. **Election of Council Members.** The Council members serving on the  
24 date of ratification of this Charter shall serve until the expiration of their terms or until  
25 their successors are elected and qualified. Except for the filling of vacancies as provided  
26 for in G.S. 160A-63, two Council members shall be elected at the regular municipal  
27 election in 1997 and every four years thereafter, and three Council members shall be  
28 elected at the regular municipal election in 1999 and every four years thereafter.

29 "Section 3.3. **Special Elections and Referenda.** Special elections and referenda may  
30 be held only as provided by general law or applicable local acts of the General Assembly.

### 31 "ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

32 "Section 4.1. **Form of Government.** The Village shall operate under the council-  
33 manager form of government, in accordance with G.S. 160A, Article 7, Part 2.

34 "Section 4.2. **Village Manager; Appointment; Powers and Duties.** The Council  
35 shall appoint a Village Manager who shall be responsible for the administration of all  
36 departments of the Village government. The Village Manager shall have all the powers  
37 and duties conferred by general law, except as expressly limited by the provisions of this  
38 Charter, and the additional powers and duties conferred by the Council, so far as  
39 authorized by general law.

40 "Section 4.3. **Manager's Personnel Authority; Role of Elected Officials.** As chief  
41 administrator, the Village Manager shall have the power to appoint, suspend, and remove  
42 all officers, department heads, and employees in the administrative service of the Village,  
43 with the exception of the Village Attorney, the Village Clerk, and any other official

1 whose appointment or removal is specifically vested in the Council by this Charter or by  
2 general law. Neither the Council nor any of its members shall take part in the  
3 appointment or removal of officers and employees in the administrative service of the  
4 Village, except as provided by this Charter. Except for the purpose of inquiry, or for  
5 consultation with the Village Attorney, the Council and its members shall deal with the  
6 administrative service solely through the Village Manager, Acting Manager, or Interim  
7 Manager, and neither the Council nor any of its members shall give any specific orders to  
8 any subordinates of the Village Manager, Acting Manager, or Interim Manager, either  
9 publicly or privately.

10 "Section 4.4. **Village Attorney.** The Village Council shall appoint a Village  
11 Attorney licensed to practice law in North Carolina. It shall be the duty of the Village  
12 Attorney to represent the Village, advise Village officials, and perform other duties  
13 required by law or as the Council may direct.

14 "Section 4.5. **Village Clerk.** The Village Council shall appoint a Village Clerk to  
15 keep a journal of the proceedings of the Council, to maintain official records and  
16 documents, to give notice of meetings, and to perform such other duties required by law  
17 or as the Council may direct.

18 "Section 4.6. **Tax Collector.** The Village shall have a Tax Collector to collect all  
19 taxes owed to the Village, subject to general law, this Charter, and Village ordinances  
20 and to perform those duties specified in G.S. 105-350 and such other duties as prescribed  
21 by law or assigned by the Village Manager. Notwithstanding the provisions of G.S. 105-  
22 349, the Village Manager is authorized to appoint and remove the Tax Collector and any  
23 deputy tax collectors.

24 "Section 4.7. **Finance Director.** The Village Manager shall appoint a Finance  
25 Officer to perform the duties designated in G.S. 159-25 and such other duties as may be  
26 prescribed by law or as the Council may direct, or the Village Council may, at its  
27 election, confer the duties of Finance Officer on the Village Manager as Budget Officer.  
28 The Finance Officer may be entitled 'Accountant,' 'Treasurer,' 'Finance Director,'  
29 'Finance Officer,' or any other reasonably descriptive title.

30 "Section 4.8. **Other Administrative Officers and Employees.** The Council may  
31 authorize other positions to be filled by appointment by the Village Manager, and may  
32 organize the Village government as deemed appropriate, subject to the requirements of  
33 general law.

#### 34 "ARTICLE V. FINANCE AND TAXATION.

35 "Section 5.1. **Room Occupancy and Tourism Development Tax.** The authority of  
36 the Village to levy a room occupancy and tourism tax shall continue as authorized by  
37 Chapter 664 of the 1991 Session Laws, and any subsequent acts.

#### 38 "ARTICLE VI. CONTRACT POST OFFICE.

39 "Section 6.1. **Contract Post Office.** The authority of the Village to operate a  
40 contract post office shall continue as authorized by Chapter 16 of the 1991 Session Laws,  
41 as amended by Chapter 350 of the 1991 Session Laws, and any subsequent acts.

#### 42 "ARTICLE VII. NO-WAKE SPEED ZONE.

1 "Section 7.1. **'No-Wake' Speed Zone.** The 'no-wake' speed zone established by  
2 Chapter 688 of the 1987 Session Laws, and any subsequent acts, shall continue as  
3 authorized.

4 **"ARTICLE VIII. MISCELLANEOUS.**

5 "Section 8.1. **Motorboat Operation.** The Village may regulate the speed and  
6 operation of motorboats within the Village jurisdiction to preserve the tranquillity and  
7 environment of the Village.

8 "Section 8.2. **Sand Dunes.** The Village may construct, reconstruct, plant, and  
9 maintain sand dunes and regulate access to and across dunes to prevent or repair damage  
10 to dunes so as to provide protection against erosion or overwash.

11 "Section 8.3. **Beach Regulation.** The Village may, by ordinance, establish standards  
12 of dress, conduct, and decorum on the beaches of Bald Head Island and may otherwise  
13 regulate the use of those beaches within the Village jurisdiction.

14 **"ARTICLE IX. PHASED DEVELOPMENT PLAN.**

15 "Section 9.1. **Phased Development Plan.** In accordance with an act to incorporate  
16 the Village of Bald Head Island, Chapter 156 of the 1985 Session Laws, the Village  
17 Council was required to adopt by ordinance plans of development consistent with the  
18 historical land-use patterns and densities in existence on Bald Head Island at the time of  
19 ratification of the act. The Village Council, after public hearing and upon  
20 recommendation of its Planning Board, adopted a zoning ordinance for the undeveloped  
21 portions of Bald Head Island consistent with those historical land-use patterns and  
22 densities. Such zoning ordinance is based upon a 'Phased Development Plan' (as that  
23 term is defined in G.S. 160A-385.1(b)(3)), which plan was prepared by Bald Head Island  
24 Limited.

25 "Section 9.2. **Vested Rights.** The owners of the undeveloped portions of Bald Head  
26 Island are declared hereby to have acquired vested rights in accordance with G.S. 160A-  
27 385.1 as to the 'Phased Development Plan' entitled 'Revised June 29, 1995 STAGE 2  
28 MASTER PLAN BALD HEAD ISLAND NORTH CAROLINA BALD HEAD ISLAND  
29 PLANNING DEPARTMENT' and approved by the State Division of Coastal  
30 Management on August 7, 1995. Notwithstanding the provisions of G.S. 160A-385.1(d),  
31 these vested rights shall be valid through December 31, 1999, and no longer. Nothing in  
32 this section shall be construed to prohibit the further granting of vested rights by the  
33 Village pursuant to the provisions of G.S. 160A-385.1.

34 "Section 9.3. **Alteration of Vested Rights.** As specifically authorized by G.S. 160A-  
35 385.1(e)(1)a., the vested rights herein granted may only be changed, prior to December  
36 31, 1999, as allowed by the exceptions set forth in G.S. 160A-385.1(e). In addition,  
37 subject to the approval of the Village and within the limits established by the Village  
38 zoning and other land-use ordinances, vested densities may be transferred within the area  
39 depicted on the Stage 2 Master Plan referred to in Section 9.2 of this Charter so long as  
40 the density of development within the total area is not increased.

41 "Section 9.4. **Land-Use Regulation.** Except as herein expressly provided, nothing in  
42 this Charter shall be construed to prohibit the Village from amending its current land-use

1 regulatory ordinances, in whole or in part, or otherwise regulating the use of land within  
2 the planning and zoning jurisdiction of the Village.

3 **"ARTICLE X. MOTOR VEHICLE REGULATION.**

4 "Section 10.1. **Motor Vehicle Regulation.** The Village may by ordinance exempt  
5 from the provisions of Articles 3, 3A, 11, and 13 of Chapter 20 of the General Statutes, in  
6 whole or in part, the registration, licensing, regulation, inspection, or equipping of motor  
7 vehicles and may regulate the use, operation, possession, and ownership of motor  
8 vehicles within the jurisdiction of the Village of Bald Head Island. Additionally,  
9 notwithstanding the provisions of Chapter 20 of the General Statutes or any other statute,  
10 and in addition to those powers now or hereafter conferred by law, the Village shall have  
11 the authority to regulate motor vehicles and other means of transportation within the  
12 jurisdiction of the Village, including the following:

13 (1) Regulation of the use and operation of all vehicles, as defined in G.S. 20-  
14 4.01(49).

15 (2) Regulation of all electrically powered vehicles or vehicles powered by fossil  
16 fuel or internal combustion engines.

17 (3) Regulation of the size, weight, lighting, safety standards, and engine or motor  
18 size or power characteristics of all vehicles or other means of transportation within the  
19 jurisdiction of the Village.

20 "Section 10.2. **Street Regulation.** In order to establish and preserve the unique  
21 character and aesthetics of Bald Head Island, the Village may adopt, by ordinance, such  
22 standards for the establishment and maintenance of streets and roads within the  
23 jurisdiction of the Village as it deems appropriate. The streets and roads within the  
24 jurisdiction of the Village shall not be under the authority of the North Carolina  
25 Department of Transportation. The provisions of Articles 2 and 2A of Chapter 136 of the  
26 General Statutes shall not apply within the jurisdiction of the Village. The Village shall  
27 be exempt from the provisions of G.S. 136-66.2.

28 **"ARTICLE XI. SEA TURTLE SANCTUARY.**

29 "Section 11.1. **Sea Turtle Sanctuary.** The Village of Bald Head Island may create  
30 and establish a sea turtle sanctuary within the areas of the Village limits above the mean  
31 low watermark, to include the foreshore. Any ordinances adopted by the Village to  
32 regulate activities within the sea turtle sanctuary that may or will disturb or destroy a sea  
33 turtle, a sea turtle nest, or sea turtle eggs, must be consistent with the ordinance powers  
34 found in G.S. 160A-174, G.S. 160A-308, and any other law. The ordinances adopted by  
35 the Village may by cross-reference incorporate the criminal statutes regarding the taking  
36 of sea turtles at G.S. 113-189 and G.S. 113-337. It shall be unlawful for any person  
37 within the sea turtle sanctuary to disturb or destroy a sea turtle, a sea turtle nest, or sea  
38 turtle eggs in violation of an ordinance adopted by the Village of Bald Head Island."

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

1           Section 3. This act does not repeal or affect any acts concerning the property,  
2 affairs, or government of public schools or any acts validating official actions,  
3 proceedings, contracts, or obligations of any kind.

4           Section 4. The provisions of Chapter 156 of the 1985 Session Laws, except for  
5 the provisions of Section 4-3(f), (g), and (h), having served the purposes for which they  
6 were enacted or having been consolidated into this act, are expressly repealed. The  
7 provisions of Section 4-3(f), (g), and (h) of Chapter 156 of the 1985 Session Laws are  
8 expressly not repealed and shall continue as authorized.

9           Section 5. The Mayor and Council members serving on the date of ratification  
10 of this act shall serve until the expiration of their terms or until their successors are  
11 elected and qualified. Thereafter those offices shall be filled as provided in Articles II  
12 and III of Section 1 of this Charter.

13           Section 6. This act does not affect any rights or interests which arose under  
14 any provisions repealed by this act.

15           Section 7. All existing ordinances, resolutions, and other provisions of the  
16 Village of Bald Head Island not inconsistent with the provisions of this act shall continue  
17 in effect until repealed or amended.

18           Section 8. No action or proceeding pending on the effective date of this act by  
19 or against the Village or any of its departments or agencies shall be abated or otherwise  
20 affected by this act.

21           Section 9. Whenever a reference is made in this act to a particular provision of  
22 the General Statutes, and that provision is later amended, superseded, or recodified, the  
23 reference shall be deemed amended to refer to the amended General Statute or to the  
24 General Statute that most clearly corresponds to the statutory provision that is superseded  
25 or recodified.

26           Section 10. This act is effective when it becomes law.