

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**HOUSE BILL 882**

Short Title: Duck Incorporated.

(Local)

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Sponsors: Representative Culpepper.

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Referred to: Finance.

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March 29, 2001

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF DUCK.

The General Assembly of North Carolina enacts:

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

"CHARTER OF THE TOWN OF DUCK.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

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

"ARTICLE II. CORPORATE BOUNDARIES.

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

BEGINNING at the point of intersection of the northeast corner of the corporate limits of the Town of Southern Shores in Dare County, North Carolina, with the mean high watermark of the Atlantic Ocean; thence along a line in a general easterly direction for a distance of 1,000 feet to a point along an eastern projection of the northern Town of Southern Shores limit line to a point in the Atlantic Ocean; thence, in a northwesterly direction along a line 1,000 feet parallel to the mean high watermark of the Atlantic Ocean until such line forms a point of intersection with another line, such line being the projection of the Dare County boundary line 1,000 feet easterly from the mean high watermark of the Atlantic Ocean; thence, in a westerly direction along the projected line to the intersection of Dare County boundary line with the mean high watermark of the Atlantic Ocean; thence, in a westerly direction along the Dare County boundary line to a point of intersection of the Dare County boundary line with the mean high watermark of the Currituck Sound; thence, along a line in a general westerly direction for a distance of 1,000 feet to a point along a western projection of the Dare County boundary line to a point in the Currituck Sound; thence, in a southeasterly direction along a line 1,000 feet

1 parallel to the mean high watermark of the Currituck Sound until such line forms a point  
2 of intersection with another line, such line being the projection of the northern line of  
3 the Town of Southern Shores corporate limits 1,000 feet westerly from the mean high  
4 watermark of the Currituck Sound; thence, in an easterly direction along the projected  
5 line to the intersection of the northwest corner of the Town of Southern Shores  
6 corporate limits with the mean high watermark of the Currituck Sound; thence, in an  
7 easterly direction along the northern line of the Town of Southern Shores corporate  
8 limits to the place of beginning.

9 "ARTICLE III. GOVERNING BODY.

10 "Section 3.1. **Structure of Governing Body; Number of Members.** The governing  
11 body of the Town of Duck shall be the Town Council, which shall have five members.

12 "Section 3.2. **Temporary Officers.** Until the initial election of 2001 provided for by  
13 Article IV of this Charter, Allan W. Beres, Nancy R. Caviness, Paul F. Keller, Manfred  
14 E. Schwartz, and Judith L. Wessel are appointed to the Town Council of the Town of  
15 Duck. The temporary officers shall elect persons to serve as Interim Mayor and Interim  
16 Mayor Pro Tempore. If any person named in this section is unable to serve, the  
17 remaining temporary officers shall, by majority vote, appoint a person to serve until the  
18 initial election is held.

19 "Section 3.3. **Manner of Electing Council; Term of Office.** The qualified voters of  
20 the entire Town shall elect members of the Town Council from the Town at large, and  
21 the members shall each serve a term of two years. To be eligible for election to the  
22 Town Council an individual must reside in the Town of Duck. Vacancies on the Town  
23 Council shall be filled in accordance with G.S. 160A-63.

24 "Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The Mayor  
25 shall be elected from among the members of the Town Council at the organizational  
26 meeting after the initial election in November 2001, and shall serve for a term of two  
27 years. The Mayor shall attend and preside over meetings of the Town Council, shall  
28 advise the Town Council from time to time as to matters involving the Town of Duck,  
29 and shall have the right to vote as a member of the Town Council on all matters before  
30 the Council, but shall have no right to break a tie vote in which the Mayor has  
31 participated.

32 "Section 3.5. **Manner of Electing Mayor Pro Tempore; Term of Office; Duties.**  
33 The Mayor Pro Tempore shall be elected from among the members of the Town  
34 Council at the organizational meeting after the initial election in November 2001, and  
35 shall serve for a term of two years. The Mayor Pro Tempore shall act in the absence or  
36 disability of the Mayor. If the Mayor and Mayor Pro Tempore are both absent from a  
37 meeting of the Town Council, the members of the Town Council present may elect a  
38 temporary chairman to preside in the absence. The Mayor Pro Tempore shall have the  
39 right to vote on all matters before the Town Council and shall be considered a member  
40 of the Town Council for all purposes.

41 "Section 3.6. **Compensation of Mayor and Town Council.** The Mayor and  
42 members of the Town Council shall be reimbursed for ordinary and necessary expenses  
43 and may receive salary and honoraria only upon a majority vote of the qualified voters  
44 of the Town who vote on the question in a special referendum.

1 "ARTICLE IV. ELECTIONS.

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

4 "Section 4.2. **Date of Election.** Elections shall be conducted in accordance with  
5 Chapter 163 of the General Statutes, with the first election to be held on November 6,  
6 2001.

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

10 "ARTICLE V. ORGANIZATION AND ADMINISTRATION.

11 "Section 5.1. **Form of Government.** The Town shall operate under the  
12 Council-Manager plan as provided in Part 2 of Article 7 of Chapter 160A of the General  
13 Statutes.

14 "Section 5.2. **Town Manager; Appointment; Power and Duties.** The Town  
15 Council shall appoint a Town Manager who shall be responsible for the administration  
16 of all departments of the Town government, except as otherwise directed by the Town  
17 Council. The Town Manager shall have all the powers and duties conferred by general  
18 law, except as expressly limited by the provisions of this Charter, and the additional  
19 powers and duties conferred by the Town Council, so far as authorized by general law.

20 "Section 5.3. **Town Manager's Authority Over Personnel; Role of Elected**  
21 **Officials.** As chief administrator of the Town, the Town Manager shall have the power  
22 to appoint, suspend, and remove all Town officers, department heads, and employees,  
23 except the Town Attorney, Town Clerk, and any other official whose appointment or  
24 removal is vested in the Town Council by this Charter or by general law. Neither the  
25 Town Council nor any of its members shall take part in the appointment or removal of  
26 officers or employees in the administrative service of the Town of Duck, except as  
27 provided by this Charter. Except for purposes of inquiry, or for consultation with the  
28 Town Attorney, the Town Council and its members shall deal with Town employees  
29 solely through the Town Manager or Acting Town Manager, and neither the Town  
30 Council nor any of its members shall give any specific orders to any subordinates of the  
31 Town Manager or Acting Town Manager, either publicly or privately.

32 "Section 5.4. **Town Attorney.** The Town Council shall appoint a Town Attorney  
33 licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to  
34 represent the Town, advise Town officials, and perform other duties required by law or  
35 as the Town Council may direct.

36 "Section 5.5. **Town Clerk.** The Town Council shall appoint a Town Clerk to keep a  
37 journal of the proceedings of the Town Council, to maintain official records and  
38 documents, to give notice of meetings, and to perform such other duties required by law  
39 or as the Town Council may direct.

40 "Section 5.6. **Other Administrative Officers and Employees.** The Town Council  
41 may authorize other offices and positions and appoint persons to fill the offices and  
42 positions, or the Council may authorize the offices and positions to be filled by  
43 appointment by the Town Manager. The Town Council may organize the Town  
44 government as deemed appropriate, subject to the requirements of general law.

1 "Section 5.7. **Consolidation of Functions.** Where positions are not incompatible,  
2 the Town Council may combine in one person the powers and duties of two or more  
3 officers created or authorized by this Charter.

4 "ARTICLE VI. TAXES AND BUDGET ORDINANCE.

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

9 "Section 6.2. **Budget.** From and after July 1, 2001, the citizens and property in the  
10 Town of Duck shall be subject to municipal taxes levied for the fiscal year beginning  
11 July 1, 2001, and, for that purpose, the Town shall obtain from Dare County a record of  
12 property in the area herein incorporated that was listed for taxes as of January 1, 2001.  
13 The Town may adopt a budget ordinance for fiscal year 2001-2002 without following  
14 the timetable in the Local Government Budget and Fiscal Control Act, but shall follow  
15 the sequence of actions in the spirit of the Act insofar as is practical. For fiscal year  
16 2001-2002, ad valorem taxes may be paid at par or face amount within 90 days of  
17 adoption of the budget ordinance and thereafter in accordance with the schedule in G.S.  
18 105-360 as if the taxes had been due and payable on September 1, 2001. If the effective  
19 date of incorporation is prior to July 1, 2001, the Town may adopt a budget ordinance  
20 for fiscal year 2000-2001 without following the timetable in the Local Government  
21 Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of  
22 the Act insofar as is practical, but no ad valorem taxes shall be levied for that year.

23 "ARTICLE VII. ORDINANCES.

24 "Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town of  
25 Duck is authorized to adopt such ordinances as the Town Council deems necessary for  
26 the governance of the Town.

27 "ARTICLE VIII. MISCELLANEOUS.

28 "Section 8.1. **Conflicts of Interest.** No person, or a member of the person's  
29 immediate family, who is employed by or is an official of the Town of Duck, shall do  
30 business with the Town unless such activity is approved by the Town Council. All  
31 appointed officials of the Town shall inform the Town Council of any conflicts of  
32 interest, and the failure to so inform shall constitute grounds for immediate dismissal for  
33 cause. No official of the Town may accept any gratuity from any business, person, or  
34 other official if the gratuity is related to his or her official duties.

35 "Section 8.2. **Enlargement of Town Council.** The qualified voters of the Town of  
36 Duck may seek to enlarge the number of members of the Town Council by submitting a  
37 petition to that effect signed by twenty percent (20%) of the qualified voters. Upon  
38 passage of a resolution as provided in G.S. 160A-102 or upon receipt of a valid petition,  
39 the Town Council shall immediately take steps as provided in Part 4 of Article 5 of  
40 Chapter 160A of the General Statutes to determine by referendum whether the number  
41 of members of the Town Council should be increased. If a majority of the votes cast in  
42 the referendum are in the affirmative, a special election shall be held at the earliest  
43 possible date to elect the additional members required to enlarge the Town Council to  
44 the number set forth in the referendum.

1 "Section 8.3. **Amendments to Charter.** The Town Council may propose and enact  
2 amendments to this Charter in accordance with Part 4 of Article 5 of Chapter 160A of  
3 the General Statutes. No amendment to this Charter shall become effective until public  
4 notice is given and a public hearing is held to receive comments on the proposed  
5 Charter amendment. Notwithstanding G.S. 160A-103, upon receipt of a referendum  
6 petition bearing the signatures and residence addresses of twenty percent (20%) of the  
7 qualified voters of the Town, the Town Council shall submit ordinances adopted under  
8 G.S. 160A-102 to a vote of the people.

9 "Section 8.4. **Provision of Services and Administration of Functions.** The Town  
10 Council may enter into agreements with other governmental bodies and private  
11 enterprises for the provision of services and the administration of corporate functions in  
12 order to provide the services and administer the functions in the most efficient and cost-  
13 effective manner.

14 "ARTICLE IX. SPECIAL PROVISIONS.

15 "Section 9.1. **Ad Valorem Taxes.** The Town Council shall not increase the ad  
16 valorem tax rate more than ten cents (10¢) per one hundred dollars (\$100.00) valuation  
17 above the ad valorem tax rate initially established after incorporation of the Town of  
18 Duck without the vote or consent of a majority of the qualified voters of the Town of  
19 Duck. The procedures of G.S. 160A-209 shall be followed for any such election.

20 "Section 9.2. **Fire Protection.** The Town of Duck shall contract with the Duck  
21 Volunteer Fire Department, Inc., to provide fire protection for the Town. The contract  
22 terms and amount paid by the Town of Duck to Duck Volunteer Fire Department, Inc.,  
23 shall be mutually agreed upon and annually renewed by the Board of Directors for the  
24 Duck Volunteer Fire Department, Inc., and the Town Council."

25 **SECTION 2.** This act is effective when it becomes law.