

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1199

Short Title: Incorporate Hampstead/Moratorium. (Local)

Sponsors: Representative Justice.

Referred to: Local Government I, if favorable, Finance.

March 29, 2007

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF HAMPSTEAD AND TO PROVIDE
FOR A MORATORIUM ON THE ANNEXATION OF HAMPSTEAD PRIOR TO
A REFERENDUM ON INCORPORATION.

The General Assembly of North Carolina enacts:

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

"CHARTER OF THE TOWN OF HAMPSTEAD.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Hampstead are a body corporate and politic under the name 'Town of Hampstead'. The Town of Hampstead 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 Hampstead are as follows:

Beginning at a point located in the eastern right-of-way line of US 17, said point being the intersection of the southern right-of-way line of Washington Acres Road (SR 1582) and the eastern right-of-way line of US 17; thence running in a westerly direction approximately 100 feet to the western right-of-way line of US 17 to a point; said point being the joint property corner of Eugenia K. Dail and Terry Lyle Finley and Bertha E.; thence running in a westerly direction along the boundary line between said properties for a distance of 500 feet to a point, said point being the intersection of the Southern and Western lines of the proposed city limits; thence turning and running parallel to and 500 feet west of the western right-of-way line of US 17 for a distance of approximately 5.5 miles to a point, said point being the intersection of the Western and Northern lines of the proposed city limits; thence turning and running South 41 Degrees 41 minutes 50 seconds East 500 feet to the western right-of-way line of US 17; thence running on the same bearing approximately 100 feet to a point in the eastern right-of-way line of US 17, said point being the intersecting line of the eastern right-of-way of US 17 and the

1 northern right-of-way line of Sloop Point Loop Road (SR 1563); thence running along
2 the northern right-of-way line of Sloop Point Loop Road (SR 1563) for approximately
3 1.6 miles to a point; said point being 90 degrees from the intersection of the northern
4 right-of-way line of Sloop Point Loop Road (SR 1563) and the northern right-of-way
5 line of Hickory Point Road (SR 1607); thence running in an eastern direction along the
6 northern right-of-way line of Hickory Point Road approximately 0.4 miles to the end of
7 said road, thence continuing on the same bearing of Hickory Point Road approximately
8 300 feet to the western boundry of the Intracoastal Waterway (ICW), said point being
9 the intersection of the Northern and Eastern lines of the proposed city limits; thence
10 turning and running in a southerly direction along the ICW for approximately 5.6 miles
11 to a point located at the intersection of the ICW and a line extended on the same bearing
12 from the southern right-of-way line of Washington Acres Road (SR 1582), said point
13 being the intersection of the Eastern and Southern lines of the proposed city limits;
14 thence turning and running in a northwesterly direction, at the same bearing as the
15 southern right-of-way line of Washington Acres Road (SR 1582), for approximately 450
16 feet to the most eastern end of said road; thence continuing along the southern
17 right-of-way line of Washington Acres Road (SR 1582) approximately 1.8 miles to the
18 point of beginning.

19 "Section 2.2. **Annexation.** (a) An annexation ordinance under G.S. 160A-37 or
20 G.S. 160A-49 shall become effective only if approved by the voters of the area to be
21 annexed in a referendum conducted as provided in subsection (b) of this section.

22 (b) The Town Council shall order the Pender County Board of Elections to call an
23 election to determine whether or not the proposed territory shall be annexed to the
24 Town. Within 100 days after receiving the order from the Town, the board of elections
25 shall proceed to hold an election on the question.

26 The election shall be called by a resolution or resolutions of the board of elections
27 which shall:

- 28 (1) Describe the territory proposed to be annexed to the Town as set out in
29 the order of the Town.
- 30 (2) Provide that the matter of annexation of the territory shall be submitted
31 to the vote of the qualified voters of the territory proposed to be
32 annexed.
- 33 (3) Provide for registration of voters in the territory proposed to be
34 annexed for the election in accordance with G.S. 163-288.2.

35 The resolution shall be published in one or more newspapers of Pender County once
36 a week for 30 days prior to the closing of the registration books. All costs of holding the
37 election shall be paid by the Town. Except as herein provided, the election shall be held
38 under the same statutes, rules, and regulations as are applicable to elections in the
39 Town.

40 In the election, the question on the ballot shall be:

41 [] FOR [] AGAINST
42 Annexation.'

1 If a majority of the votes cast from the area proposed for annexation shall be 'For
2 Annexation', the annexation ordinance shall become effective as provided by this
3 section and general law.

4 "ARTICLE III. GOVERNING BODY.

5 "Section 3.1. **Structure of Governing Body; Number of Members.** The governing
6 body of the Town of Hampstead shall be the Town Council, which shall have five
7 members.

8 "Section 3.2. **Temporary Officers.** Until the initial election of 2009, provided for
9 by Article IV of this Charter, Stuart A. Mossman, Gary Poirier, John K. Swann, Susan
10 A. Forbes, and George Mara are appointed to the Town Council of the Town of
11 Hampstead. The temporary officers shall elect persons to serve as Interim Mayor and
12 Interim Mayor Pro Tempore. If any person named in this section is unable to serve, the
13 remaining temporary officers shall, by majority vote, appoint a person to serve until the
14 initial election is held.

15 "Section 3.3. **Manner of Electing Council; Term of Office.** Two of the Council
16 members shall be elected at large from the residents of the Town and three shall be
17 elected from each of Districts 1, 2, and 3 respectively, as provided in Article IV of this
18 Charter. The qualified voters of the entire Town shall elect all the members of the Town
19 Council, and, except as provided in this section, they shall serve four-year terms. In
20 2009, two Council members shall be elected at large and one council member shall be
21 elected from District 1 and they shall serve for four-year terms, and one Council
22 member shall be elected from each of Districts 2 and 3 respectively and they shall serve
23 for two-year terms. In 2011, and quadrennially thereafter, one Council member shall be
24 elected from each of Districts 2 and 3 respectively and they shall serve for four-year
25 terms. In 2013, and quadrennially thereafter, two members shall be elected at large and
26 one member shall be elected from District 1 and they shall serve for four-year terms. No
27 person may serve as a member of the Town Council for more than two consecutive full
28 terms without an intervening period of two years. Appointment for the unexpired
29 portion of a term shall not be considered appointment for a full term. A person elected
30 as a member of the Town Council after an intervening period of two years may serve for
31 two consecutive full terms, but no longer. Vacancies on the Town Council shall be filled
32 in accordance with G.S. 160A-63.

33 "Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The Mayor
34 shall be elected from among the members of the Town Council at the organizational
35 meeting after the initial election in November 2009, and shall serve for a term of one
36 year. Any member of the Town Council is eligible to serve successive one-year terms as
37 Mayor, and the member shall be elected in the same manner in which the member was
38 initially elected. The Mayor shall attend and preside over meetings of the Town
39 Council, shall advise the Town Council from time to time as to matters involving the
40 Town of Hampstead, and shall have the right to vote as a member of the Town Council
41 on all matters before the Council. In the case of a vacancy in the office of Mayor, the
42 remaining members of the Town Council shall choose from their own number a
43 successor for the unexpired term.

1 "Section 3.5. **Manner of Electing Mayor Pro Tempore; Term of Office; Duties.**
2 The Mayor Pro Tempore shall be elected from among the members of the Town
3 Council at the organizational meeting after the initial election in November 2009, and
4 shall serve for a term of one year. Any member of the Town Council is eligible to serve
5 successive one-year terms as Mayor Pro Tempore, and the member shall be elected in
6 the same manner in which the member was initially elected. The Mayor Pro Tempore
7 shall act in the absence or disability of the Mayor. If the Mayor and Mayor Pro Tempore
8 are both absent from a meeting of the Town Council, the members of the Town Council
9 present may elect a temporary chairman to preside in the absence. The Mayor Pro
10 Tempore shall have the right to vote on all matters before the Town Council and shall
11 be considered a member of the Town Council for all purposes.

12 "ARTICLE IV. ELECTIONS.

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

15 "Section 4.2. **Date of Election.** Elections shall be conducted in accordance with
16 Chapter 163 of the General Statutes, with the first election to be held on November 3,
17 2009.

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

21 "Section 4.4. **Regular Municipal Elections; District Boundaries.** Regular
22 municipal elections shall be held in each odd-numbered year in accordance with the
23 uniform municipal election laws of North Carolina. For purpose of the election of Town
24 Council members, the Town is divided into three geographical subdivisions, known as
25 districts, and all qualified voters of the Town may cast a vote for each seat. A written
26 description or map showing the current boundaries of the three election districts shall be
27 maintained in the office of the Town Clerk and shall be available for public inspection.
28 The district boundaries may be amended periodically pursuant to the provisions of
29 general law. Whenever areas are hereafter annexed and made part of the Town, the
30 Town Council shall, by ordinance, redefine and rearrange the three election districts so
31 as to include the annexed areas. The ordinance shall be adopted at least seven days prior
32 to the opening of candidate filing for the municipal election next succeeding the date of
33 any annexation and shall provide for three election districts of approximately equal
34 population. In redefining and rearranging the election district lines, the Town Council
35 shall follow as nearly as practical existing district lines.

36 "Section 4.5. **Residency Required.** Candidates for election to district seats on the
37 Town Council shall reside in and represent their respective districts, but all candidates
38 for Town Council shall be nominated and elected by all voters of the Town. Candidates
39 for election to at-large seats on the Town Council shall reside within the corporate limits
40 of the Town in order to qualify to take, hold, and continue in the office.

41 "ARTICLE V. ORGANIZATION AND ADMINISTRATION.

42 "Section 5.1. **Form of Government.** The Town shall operate under the
43 Mayor-Council plan as provided in Part 3 of Article 7 of Chapter 160A of the General
44 Statutes.

1 "Section 5.2. **Town Attorney.** The Town Council shall appoint a Town Attorney
2 licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to
3 represent the Town, advise Town officials, and perform other duties required by law or
4 as the Town Council may direct.

5 "Section 5.3. **Town Clerk.** The Town Council shall appoint a Town Clerk to keep
6 a journal of the proceedings of the Town Council, to maintain official records and
7 documents, to give notice of meetings, and to perform such other duties required by law
8 or as the Town Council may direct.

9 "Section 5.4. **Other Administrative Officers and Employees.** The Town Council
10 may authorize other offices and positions and appoint persons to fill the offices and
11 positions. The Town Council may organize the Town government as deemed
12 appropriate, subject to the requirements of general law.

13 "Section 5.5. **Consolidation of Functions.** Where positions are not incompatible,
14 the Town Council may combine in one person the powers and duties of two or more
15 officers created or authorized by this Charter.

16 "Section 5.6. **Compensation of Mayor and Town Council; Temporary Officers.**
17 The Mayor and members of the Town Council shall be reimbursed for ordinary and
18 necessary expenses, and may receive salary and honoraria only upon a majority vote of
19 the qualified voters of the Town who vote on the question in a special referendum. The
20 Temporary Officers, as described in Section 3.2 of this Charter, shall not receive a
21 salary.

22 "ARTICLE VI. TAXES AND BUDGET ORDINANCE.

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

27 "Section 6.2. **Budget.** From and after July 1, 2008, the citizens and property in the
28 Town of Hampstead shall be subject to municipal taxes levied for the fiscal year
29 beginning July 1, 2008, and, for that purpose, the Town shall obtain from Pender
30 County a record of property in the area herein incorporated that was listed for taxes as
31 of January 1, 2008. The Town may adopt a budget ordinance for fiscal year 2008-2009
32 without following the timetable in the Local Government Budget and Fiscal Control
33 Act, but shall follow the sequence of actions in the spirit of the Act insofar as is
34 practical. For fiscal year 2008-2009, ad valorem taxes may be paid at par or face
35 amount within 90 days of adoption of the budget ordinance and thereafter in accordance
36 with the schedule in G.S. 105-360 as if the taxes had been due and payable on
37 September 1, 2008.

38 "Section 6.3. **Ad Valorem Taxes.** The ad valorem tax rate for the Town shall be
39 \$0.05/\$100.00 valuation, and shall not be increased by the Temporary Officers, which
40 are described in Section 3.2 of this Charter. The Town Council shall not increase the ad
41 valorem tax rate more than ten percent (10%) or \$0.02/\$100.00 valuation, whichever is
42 less, above the ad valorem tax rate initially established after incorporation of the Town
43 of Hampstead without the vote or consent of a majority of the qualified voters of the

1 Town of Hampstead. The procedures of G.S.160A-209 shall be followed for any such
2 election.

3 "ARTICLE VII. ORDINANCES.

4 "Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town of
5 Hampstead is authorized to adopt such ordinances as the Town Council deems
6 necessary for the governance of the Town.

7 "ARTICLE VIII. SPECIAL PROVISIONS.

8 "Section 8.1. **Fire Protection District.** (a) The whole or any portion of the
9 Hampstead Fire Protection District and the Sloop Point Fire Protection District that is
10 located within the corporate boundaries of the Town of Hampstead after the
11 incorporation of the Town shall remain a fire protection district or portion of a fire
12 protection district, and shall be subject to G.S. 69-25.4 authorizing the Pender County
13 Board of Commissioners to levy and collect a tax in the district or portion for the
14 purpose of furnishing fire protection therein.

15 (b) G.S. 69-25.15 does not apply to the Town of Hampstead.

16 (c) Upon the adoption of an ordinance by the Town Council of the Town of
17 Hampstead finding that the Town is able to establish a fire and rescue department
18 staffed either by volunteers or by full-time professional employees, or to otherwise
19 adequately provide for fire protection and rescue services, the whole or any portion of
20 the Hampstead Fire Protection District and the Sloop Point Fire Protection District that
21 is located within the corporate boundaries of the Town of Hampstead shall immediately
22 cease to be a fire protection district or portion thereof, and the fire protection district or
23 portion thereof shall no longer be subject to G.S. 69-25.4. Any ordinance adopted under
24 this section shall become effective on the first day of July which is more than 60 days
25 after adoption of the ordinance."

26 **SECTION 2.** The Pender County Board of Elections shall conduct an
27 election on November 4, 2008, for the purpose of submission to the qualified voters for
28 the area described in Section 2.1 of the Charter of the Town of Hampstead the question
29 of whether or not the area shall be incorporated as the Town of Hampstead.
30 Registration for the election shall be conducted in accordance with G.S. 163-288.2.

31 **SECTION 3.** In the election, the question on the ballot shall be:

32 "[]FOR []AGAINST

33 Incorporation of the Town of Hampstead."

34 **SECTION 4.** In the election, if a majority of the votes are cast "For the
35 Incorporation of the Town of Hampstead", Section 1 of this act shall become effective
36 on the date that the Pender County Board of Elections certifies the results of the
37 election. Otherwise, Section 1 of this act shall have no force and effect.

38 **SECTION 5.** No annexation ordinance shall be adopted by any municipality
39 under Parts 2 or 3 of Article 4A of Chapter 160A of the General Statutes as to any or all
40 of the territory described in Section 2.1 of the Charter of the Town of Hampstead, as
41 enacted in Section 1 of this act, prior to the date that the Pender County Board of
42 Elections certifies the results of the election on the question of the incorporation of the
43 Town of Hampstead, as authorized in Sections 2, 3, and 4 of this act.

44 **SECTION 6.** This act is effective when it becomes law.