

PRIVATE LAWS OF NORTH CAROLINA

SESSION 1911

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Chapter 158

AN ACT TO INCORPORATE THE TOWN OF BANNER ELK, IN THE COUNTY OF WATAUGA.

The General Assembly of North Carolina do enact:

Section 1. That the town of Banner Elk, in the county of Watauga, be and the same is hereby incorporated under the name and style of "The Town of Banner Elk," and in and by that name may sue and be sued, plead and be impleaded, contract and be contracted with, acquire and hold property, real and personal, for the use of the town as its board of commissioners may deem necessary or expedient.

Sec. 2. That the corporate limits of said town shall be as follows, to wit: Beginning at S. W. Culver's southeast corner of his ten-acre tract in Mrs. M. L. Hall's line on the side of Horse Bottom ridge, running a northwesterly course with said Hall line to her northwest corner; thence same course to the top of the ridge in the Dugger Mountain field; thence a direct line to F. H. Stinson's hemlock corner; thence west with the line of said Stinson, Michael Banner and I. D. Lowe to L. D. Lowe's corner near the turnpike road; thence west with said Lowe's line to the creek; thence down and with the meanders of the creek to a point where said creek approaches the margin of the turnpike road below R. L. Hodge's store; thence south to Elk Creek; thence up and with the meanders of the creek to the foot bridge at the head of the S. H. Banner mill pond; thence with the top of Horse Bottom ridge to the high knob; thence to the first station.

Sec 3. That an election for mayor, three commissioners and a town marshal shall be held on the first Monday in May,

one thousand nine hundred and eleven, and annually thereafter, under the same rules and regulations prescribed by law for holding municipal elections in this State.

Sec. 4. That the officers of said corporation shall consist of a mayor, three commissioners and a town marshal, and the following named persons shall fill said offices until the first Monday in May, one thousand nine hundred and eleven, or until their successors are duly elected and qualified, viz: Mayor, L. D. Lowe; commissioners, Edgar Tufts, R. L. Lowe and F. H. Stinson; marshal, J. H. von Canon, who shall take the oath of office within thirty days after the ratification of this act before some person qualified to administer oaths.

Sec. 5. That the board of commissioners of said town shall have the power to grade, macadamize and otherwise keep in repair the streets, alleys and sidewalks, to lay out and open new streets, widen those already open; to build and repair bridges within the corporate limits and make such other improvements on the streets as the public convenience may require.

Sec. 6. That when any land or right-of-way shall be required for the purpose of opening new streets, or for those already opened, and for want of agreement as to the valuation thereof, the same can not be purchased from the owner or owners thereof, the same may be taken at a valuation, to be made by three disinterested freeholders to be chosen, one by the landowner and one by the commissioners of the town, and the two thus chosen shall choose the third; or if the landowner shall refuse or fail to choose a freeholder, as above directed, the town commissioners may choose two, who shall elect the third, and in making said valuation the said freeholders, after being duly sworn by some officer qualified to administer oaths, shall

take into consideration the loss or damage which may accrue to the owner in consequence of the land or right-of-way being surrendered, and also any benefit or advantage such owner may receive from the opening or widening of such street or other improvement, and ascertain the sum which shall be paid to the owner of said property, if any they find due, and report the same to the board of commissioners under their hands and seals, which report, on being confirmed and spread upon their minutes, shall have the effect of a judgment against said board of commissioners, and shall pass the title to the said board of commissioners in their corporate capacity of the land so taken: Provided, that if any person over whose land the said street may pass, or other improvements be erected, or the commissioners be dissatisfied with the valuation thus made, then in that case either party shall have the right to appeal to the next term of the superior court of said county and have the matter in controversy tried by a jury: Provided, however, that such appeal shall not hinder or delay the commissioners in opening or widening said streets or erecting such improvements as the commissioners may deem necessary.

Sec. 7. That the officers of said corporation, or any person or persons under their direction or authority, shall have the right to enter upon the lands of any person within the corporate limits of said town and remove earth, gravel, sand or stone for the purpose of improving the streets and sidewalks, or to make other improvements in the town, and to pay any reasonable compensation therefor if demanded by the landowner; and they shall have the like power to enter upon the lands of any person within the corporate limits of said town for the purpose of making drains and digging ditches to improve the sanitary conditions of said town.

Sec. 8. That no person who is subject to road duty under the road law of the State shall be required to work upon the streets of said town more than eight days in any one year: Provided, that each person who is subject to road duty within the corporate limits of said town may be excused from road duty by the payment of the sum of seventy-five cents for each day's labor required of him, if said amount be paid to the town marshal on the day prior to the date such persons is required to perform said labor upon the streets.

Sec. 9. That the said board of commissioners shall have the power and authority to levy an annual tax not exceeding \$1.50 on the poll, and not exceeding fifty cents on each one hundred dollars valuation, the tax valuation upon the property to be the same as the tax assessment for State and county purposes on the same property for the same year. That the taxes herein authorized to be levied and collected shall be applied to making and improving streets and sidewalks, and for such other improvements in said town as said board of commissioners may deem expedient.

Sec. 10. That the town marshal as herein provided for shall be deemed ex officio tax collector, and shall be vested with the same power and authority in the collection of taxes that sheriffs have, and be subject to the same fines and penalties for failure or neglect of duty. He shall be charged with sums appearing upon the tax lists as due for town taxes, and shall be credited in settlements as sheriffs are credited; but before taking the tax list for collection he shall be required to execute and file with said board a good and sufficient bond, to be approved by said board of commissioners, in a sum double the amount of said taxes: Provided, that if said town marshal shall fail and neglect to file said when the same is required of him, the said commissioners shall appoint a tax collector to collect the said taxes, whose duty it shall be, after executing the bond required by the said

commissioners, to collect the said taxes, and the said tax collector shall be subject to the same fines and penalties for failure or neglect of duty as the said town marshal. The said town marshal shall have the same power to serve process, either civil or criminal, that other township constables have, and for the same fees, and the said town marshal shall be subject to the same fines and penalties that township constables are subject to: Provided, that before entering upon the discharge of his duties he shall be required to enter into a bond, with good and sufficient sureties, to be approved by said board of commissioners, in a sum not exceeding five hundred dollars.

Sec. 11. That this act shall be in force from and after its ratification.

Ratified this the 27th day of February, 1911.