

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 119
HOUSE BILL 166

AN ACT TO REVISE THE BURLINGTON CITY CHARTER.

The General Assembly of North Carolina do enact:

Section 1. The Charter of the City of Burlington is hereby revised and reorganized to read as follows:

THE CHARTER OF THE CITY OF BURLINGTON
CHAPTER I. ORGANIZATION AND POWERS
SUBCHAPTER A. INCORPORATION; CORPORATE POWERS AND THEIR
EXERCISE

Section 1.01. Incorporation and corporate powers.

The City of Burlington shall continue to be a body politic and corporate by the name of "City of Burlington". Under that name the city shall continue to be vested with all property and rights of property which now belong to the corporation; shall have perpetual succession, may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract and be contracted with; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to or otherwise acquired by it, and from time to time may hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

Section 1.02. Exercise of power.

All powers, functions, rights, privileges and immunities of the city, its officers, agencies, or employees, shall be carried into execution as provided by this Charter. If this Charter makes no provision, such powers, functions, rights, privileges and immunities shall be carried into execution as provided by ordinance or resolution of the city council and as provided by the pertinent general laws of North Carolina.

SUBCHAPTER B. CITY BOUNDARIES

Section 1.21. Existing city boundaries.

(a) The boundaries of the city shall be those existing at the time of adoption of this Charter with such alterations as may be made from time to time in the manner provided by law. The current city boundaries, at all times, shall be shown on a map, a written description or any combination thereof, to be retained permanently in the office of the city clerk and to be designated, as the case may be, "Map (or Description) of Burlington City Limits". Alterations in these boundaries shall be indicated by appropriate entries upon or additions to such map or description. Such entries or

additions shall be made by or under the direction of the city manager. Photographic, typed or other copies of such map or description, certified by the city clerk, shall be admitted in evidence in all courts and shall have the same force and effect as would the original map or description.

(b) The city council may provide for the redrawing of any such map. A redrawn map shall supersede for all purposes the earlier map or maps which it is designated to replace.

Section 1.22. Extension of city boundaries; in general.

The boundaries of the city may be extended, at the discretion of the city council, either pursuant to any of the procedures provided by general law or pursuant to any procedure provided by this Charter.

Section 1.23. Extension of city boundaries; subject to referendum upon petition of 15% of voters of city.

Notwithstanding the provisions of Section 11 of Chapter 1009 of the Session Laws of 1959, the provisions for extension of city boundaries subject to referendum upon petition of 15% of the qualified voters of the city as set forth in Article 36 of G. S. Chapter 160 (excepting former G. S. 160-452) shall not be repealed with respect to the City of Burlington as of July 1, 1961, but shall continue in force with respect to said city (in the form in which said Article 36, excepting former G. S. 160-452, existed prior to the adoption of said Chapter 1009) as an alternative extension procedure.

Section 1.24. Extension of city boundaries; upon petition by 150 voters of city or of area proposed to be annexed.

Whenever a petition requesting an extension of the corporate limits of the City of Burlington and describing with reasonable certainty the territory proposed to be annexed to the city, which petition shall be signed by at least one hundred and fifty (150) qualified voters of the City of Burlington or the territory proposed to be annexed or both, shall be presented to the city council as it appears advisable and for the best interest of said city, and also for the best interest of the citizens of the territory proposed to be annexed, then the city council may, in its discretion, pass an ordinance extending the corporate limits of the city as requested by said petition.

Section 1.25. Same; form of petition; annexation ordinance.

(a) The said, petition shall be in writing and the residence address of each signer shall be written after his signature. Each signature to the petition shall be verified by a statement (which may relate to a specified number of signatures) made by said adult, resident freeholder of the City of Burlington or the territory proposed to be annexed, under oath, before an officer competent to administer oaths, to the effect that the signature was made in his presence and is the genuine signature of the person whose name it purports to be. The petition need not be all on one sheet nor in one folder or volume, but if more than one sheet, it shall be verified as to each sheet, and if in separate folders or volumes, each folder or volume shall contain a copy of the petition and shall be verified as to each sheet contained therein. The city clerk shall investigate the sufficiency of the petition and present it to the city council with a certificate stating the result of his investigation. The city council shall thereupon determine the sufficiency of the petition and its determination shall be conclusive. No ordinance providing for an

extension of the corporate limits of the City of Burlington hereunder shall be passed until the city council shall first have found that a petition sufficient under this section and the preceding section has been filed as herein provided.

(b) Any such ordinance shall (1) describe with reasonable certainty the territory proposed to be annexed to the city, (2) designate within which ward or wards of the city said territory shall be included (if this Charter provides for election by wards), describing specifically the territory to be included in each ward, and (3) provide that said ordinance shall take effect when approved by the voters of the city and the territory proposed to be annexed, voting together at an election as provided for in Sections 1.26 and 1.27 of this Charter.

(c) Any such ordinance shall take effect at the time and upon the conditions indicated therein.

Section 1.26. Same; submission of annexation ordinance to voters; new registration; notice of election.

(a) The city council shall, if they shall pass such ordinance, submit the same to the voters of the City of Burlington and the territory proposed to be annexed, voting together, at an election to be held not more than ninety (90) days after the passage of the ordinance. The city council shall call a special election for that purpose which may be held at the time of holding the regular municipal election for the City of Burlington next succeeding the passage of the ordinance (if within ninety (90) days of such passage) or at some other date determined by the council, but if held at a date other than the date of holding the regular municipal election, such date shall not be within one month before or after the regular election.

(b) The city council shall order a new registration for said election of the voters in the territory proposed to be annexed. The books of such new registration shall remain open in each of the precincts of the City of Burlington from nine o'clock A. M., to six o'clock P. M., on each day except Sundays and holidays, for three weeks, beginning on a Monday morning and ending on the second Saturday evening before the election. A registrar and two judges of election shall be appointed by the council for each precinct; provided, that the books shall be open at the polling places on each Saturday during, the registration period. Sufficient notice shall be deemed to have been given of such new registration and the appointment of the election officers if a notice thereof be published once at least thirty (30) days before the closing of the registration books, stating the hours and days for registration. The voters in the territory proposed to be annexed shall register and vote in the precinct or precincts, respectively, within which such territory shall be included, as set forth in the ordinance, and the notice of new registration shall designate in which precinct or precincts such voters shall register. It shall not be necessary to specify in said notice the place for registration. In case any registrar shall fail or refuse for any cause to perform his duties, it shall be lawful for the city clerk to appoint another person to perform such duties and no notice of such appointment shall be necessary.

(c) A notice of the election shall be deemed sufficiently published by publication once not less than twenty (20) days before the election. Such notice shall

designate with reasonable certainty the territory proposed to be annexed, and the date of the election shall be stated therein.

Section 1.27. Same; ballots; returns; canvass; application of general laws; statement of results; limitation of actions.

(a) At any such election those voters who favor the extension of the corporate limits as provided in the ordinance to be approved or disapproved shall vote ballots on which shall be written or printed the words "for the ordinance extending the corporate limits", and those opposed shall vote ballots on which shall be written or printed the words, "against the ordinance extending the corporate limits". If at any such election a majority of the voters voting on the ordinance shall vote "for the ordinance extending the corporate limits," then from and after the date of such election the territory described in the ordinance voted upon in such election shall be a part of the corporate territory of said city; and such territory and its citizens and property shall be subject to all the laws, ordinances and regulations in force in said city, and shall also be entitled to the same privileges and benefits as other parts of said city.

(b) The officers appointed to hold the election in making returns thereof shall incorporate therein the number of votes cast for and against the ordinance submitted, and shall make their returns to the city council within forty-eight (48) hours after the closing of the polls by filing such returns with the city clerk. The council shall canvass the returns and shall judicially determine and declare the result of the election.

(c) Except as herein otherwise provided, the registration and election shall be conducted in accordance with the laws then governing elections for municipal officers of the City of Burlington, and governing the registration of the electors for such election of officers.

(d) The city council shall prepare a statement showing the number of votes cast for and against said ordinance submitted, and declaring the result of the election, which statement shall be signed by a majority of the members of the council and delivered to the city clerk, who shall record it in the then current minute book of the municipality, and file the original in his office and publish it once.

(e) No right of action or defense founded upon the invalidity of the election shall be asserted, nor shall the validity of the election be open to question in any court upon any grounds whatever, except in an action or proceeding commenced within thirty days after the publication of such statement.

Section 1.28. Same; payment for improvements in annexed territory.

The City of Burlington shall not be required to pay for any public improvements existing, in any new territory annexed to the City of Burlington under Sections 1.24 through 1.27 of this Charter, except sidewalks and water and sewer lines which the City of Burlington may have contracted to purchase when the streets under and along which they may have been laid should become streets of the City of Burlington within its corporate limits, and any such contracts the City of Burlington shall perform.

Section 1.29. Annexation by petition.

(a) This section shall provide a supplemental and alternative method of annexation for the City of Burlington.

(b) The city council may annex by ordinance any area contiguous to the city boundaries upon presentation to the council of a petition signed by the owners of all the real property located within such area. The petition shall be signed by each owner of real property in the area and shall contain the address of each such owner.

(c) The petition shall be prepared in substantially the following form:

Date:

To the Burlington City Council:

1. We the undersigned owners of real property respectfully request that the area described in paragraph 2 below be annexed to the City of Burlington.

2. The area to be annexed is contiguous to the City of Burlington and the boundaries of such territory are as follows:

(d) Upon receipt of the petition the city council shall cause the city clerk to investigate the sufficiency thereof and to certify the result of his investigation. Upon receipt of the certification the council shall fix a date for a public hearing on the question of annexation, and shall cause notice of the public hearing to be published once in a newspaper having general circulation in the City of Burlington at least ten days prior to the date of the public hearing; provided, if there be no such paper, the council shall have notices posted in three or more public places within the area to be annexed and three or more public places within the City of Burlington.

(e) At the public hearing all persons owning property in the area to be annexed who allege an error in the petition shall be given an opportunity to be heard, as well as residents of the city who question the necessity for annexation. The city council shall then determine whether the petition meets the requirements of this section. Upon a finding that the petition meets the requirements of this section, the city council shall have authority to pass an ordinance annexing the territory described in the petition. The council shall have authority to make the annexing ordinance effective immediately or on any specified date within six months from the date of passage of the ordinance.

(f) From and after the effective date of the annexation ordinance, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Burlington and shall be entitled to the same privileges and benefits as other parts of the city. The newly annexed territory shall be subject to city taxes levied for the fiscal year following the date of annexation. If the effective date of annexation falls between January 1 and June 30, the city shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from Alamance County a record of property in the area being annexed which was listed for taxation as of said January 1. If the effective date of annexation falls between June 1 and June 30, and the effective date of the city privilege license tax ordinance is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinance from and after the effective date of annexation.

(g) For purposes of this section, an area shall be deemed "contiguous" if, at the time the petition is submitted, such area either abuts directly on the Burlington city boundary or is separated from the city boundary by a street or street right-of-way, a

creek or river, or the right-of-way of a railroad or other public service corporation, lands owned by the city or some other political subdivision, or lands owned by the State of North Carolina. In describing the area to be annexed in the annexation ordinance, the city council may include within the description any territory described in this subsection which separates the city boundary from the area petitioning for annexation.

SUBCHAPTER C. CHARTER AMENDMENTS

Section 1.41. Incorporation of amendments.

(a) As soon as possible after the adjournment of each General Assembly, the city attorney shall present to the city council copies of all local laws relating to the property, affairs and government of the City of Burlington that were enacted by such General Assembly, whether or not in terms amending this Charter, which he recommends be incorporated into this Charter. Such recommendations may include suggestions for renumbering or rearranging the provisions of such laws, for providing titles and catch lines, and for such other changes in arrangement and form that do not change the law as may be thought necessary to implement the purposes of this section.

(b) After considering the recommendations of the city attorney, the city council may provide for the incorporation of such laws into this Charter.

(c) The purpose of this section is to enable the city to maintain at all times a current and accurate City Charter, organized in clear and orderly fashion, and embracing all local laws relating to the property, affairs and government of the city.

CHAPTER II. COMPOSITION OF CITY COUNCIL; ELECTIONS

SUBCHAPTER A. COMPOSITION AND METHOD OF ELECTION OF CITY COUNCIL

Section 2.01. Composition, election and terms of city council.

(a) The city council shall consist of five members who shall be elected in nonpartisan elections at large by and from the qualified voters of the city for staggered terms of four years. At the municipal elections of 1961, and every four years thereafter, three members shall be elected. At the municipal elections of 1963, and every four years thereafter, two members shall be elected.

(b) The terms of all members shall begin at the day and hour prescribed by Section 3.03 of this Charter for the taking of the oath of office, but members shall serve until their successors are elected and qualified. In the event that it is not possible otherwise to determine which of two or more persons should be considered a holdover councilman or holdover councilmen, decision shall be made by lot between the outgoing councilmen who are willing to serve, the lots to be cast under the supervision of the remaining qualified councilmen.

SUBCHAPTER B. REGISTRATION

Section 2.21. Appointment of registrars and judges of election; oaths of office; vacancies.

(a) The city council shall appoint a registrar and two judges of election for each election precinct, and shall publish notice of such appointments at least one time in a newspaper of general circulation in the city. Every registrar and judge of election shall be a resident of the precinct for which he was appointed. The appointments shall be

made and the notice published not later than the sixth Saturday before the general municipal election, and the notice shall state the date of said general election.

(b) Each registrar and judge of election, before entering upon his duties, shall take before some person authorized by law to administer oaths an oath to perform faithfully the duties of his office and the oaths required by general law (now codified as G. S. 11-6, 11-7 and 163-164.)

(c) If a vacancy occurs on the day of election in the office of registrar of any precinct, the same shall be filled by the judges of election of said precinct. If a vacancy occurs on that day in the office of a judge of election of any precinct, the same shall be filled by the registrar of said precinct. Vacancies in any of said offices occurring at any other time (or which cannot be filled pursuant to the preceding two sentences) shall be filled by the city clerk.

Section 2.22. Registration procedures.

(a) Each registrar shall be furnished at the expense of the city with registration books, ballot boxes, and other necessary supplies. It shall be his duty to revise the registration books of his precinct prior to each election in such manner that said books shall show an accurate list of the electors previously registered in such precinct and still residing therein, without requiring such electors to be registered anew. He shall be empowered to delete from the said registration books the names of all persons known to him to be dead or to be no longer resident in the precinct.

(b) In addition to the regular review of the registration books by the registrars provided for in the preceding subsection, the city council shall have the authority of a county board of elections to order the revision and purging of the registration books of any precinct. Any such revision and purging, if ordered by the council shall be conducted in the manner provided by general law for revision and purging of registration books on order of the county board of elections (now codified as G. S. 163-23).

(c) The city council in its discretion may order a new registration of voters. Unless a new registration is ordered, the election shall be held under the existing registration, with such revision as is herein provided for. If a new registration is ordered at least one notice thereof shall be published in a newspaper of general circulation in the city at least thirty days before the first day of such new registration.

(d) When a new registration has been ordered the registration books shall be opened for the registration of voters at nine o'clock A. M. on the fourth Saturday before the general municipal election. For all other registration periods the registration books shall be opened for the registration of voters at nine o'clock A. M. on the third Saturday before the general municipal election (or special election, as the case may be).

(e) In all cases the registration books shall be closed at six o'clock P. M. on the second Saturday before the general municipal election. It shall be the duty of each registrar, between the hours of nine o'clock A. M. and six o'clock P. M. on each day during the period when the registration books are open, to keep open said books for the registration of voters residing within his precinct and entitled to registration. On each Saturday during the period of registration the registrar shall attend with his

registration books at the polling place of his precinct, between the hours of nine o'clock A. M. and six o'clock P. M. for the registration of voters.

(f) The last Saturday for registration (that is, the second Saturday before the general municipal election) shall be combined with challenge day. On such day during the registration hours the registration books shall be open for the inspection of the electors of the precinct, and any of said electors shall be allowed to object to the name of any person appearing on said books. In case of any such objection, the registrar shall enter upon his books, opposite the name of the person so objected to, the word "Challenged", and shall appoint a time and place, before the election day, when he together with the judges of election shall hear and determine said objection. They shall give notice thereof, and shall hear and determine the cause of the challenge, under the rules and regulations prescribed for elections for members of the General Assembly (now codified as G.S. Chapter 163). Nothing herein contained shall prohibit any elector from challenging or objecting to the name of any person registered or offering to register at any time other than the above specified.

(g) No registration shall be allowed on the day of election, except that a person shall be allowed to register and vote if:

(1) He gives satisfactory evidence to the registrar and judges of election that he has become qualified to register and vote since the registration books were closed for registration;

(2) His name having been removed from the registration books pursuant to subsection (a) of this section, he appears at the polling place on election day and satisfies the precinct officials that he is qualified to vote in that precinct; or

(3) His name having been removed from the registration books pursuant to subsection (b) of this section, he appears at the polling place on election day and gives satisfactory evidence to the precinct officials that he had never received any notice by mail or otherwise of his name being placed among the list of disqualified voters in that precinct, and satisfies said officials that he is qualified to vote in that precinct.

SUBCHAPTER C. NOMINATIONS

Section 2.41. Time for primaries; primary officials; filing for nomination.

(a) That, in the event the number of candidates is more than double the number of councilmen to be elected, a primary election shall be held on the second Monday preceding the general municipal election.

(b) The judges and other officers of election appointed for the general municipal elections shall, whenever practicable, be the judges of the primary election.

(c) Any person desiring to become a candidate for nomination as a member of the city council shall, not later than five o'clock P. M. on the tenth day preceding the date fixed herein for the primary election, file with the city clerk a statement of such candidacy in substantially the following form:

STATE OF NORTH CAROLINA
COUNTY OF ALAMANCE
CITY OF BURLINGTON

I, _____, hereby give notice that I reside at _____ Street, City of Burlington, State of North Carolina; that I am

a candidate for nomination to the office of member of the city council to be voted upon at the primary election, if required, to be held, on the _____ day of _____, 19____; and also a candidate for such office at the general election to be held on Tuesday after the first Monday of May, 19____, provided said primary election is not required, and provided further that I am one of the successful candidates who receive the highest number of votes, if a primary election is required. I hereby request that my name be printed upon the official ballot for such primary election and/or general election.

(Signed) _____

And such candidate shall at the same time pay to the city clerk, to be turned over to the city treasurer, the sum of five dollars (\$5.00).

Section 2.42. Notice of primary candidates; ballots.

(a) Upon the expiration of the time for filing the notice of candidacy, the city clerk shall cause to be published for two successive days in a daily newspaper of general circulation in the city, in alphabetical arrangement, the names of the persons as they are to appear upon the primary or general election ballots.

(b) The clerk shall thereupon cause the primary ballots to be printed, provided a primary election is necessary, authenticated with a facsimile of his signature. In the event a primary election is not required, the clerk shall cause the general election ballots to be printed in the same manner. Upon the ballots, the names of the candidates, arranged alphabetically, shall be placed with a square at the left of each name and immediately below the words "Vote for _____." The ballots shall be printed upon plain, substantial white paper, and shall be headed in a primary election as follows: "OFFICIAL PRIMARY BALLOT. Candidates for nomination for members of the City Council of the City of Burlington at the primary election", followed by the insertion of the date of such election, and "Place a cross in the squares preceding the names of the persons you favor as members of the city council. Vote for _____ candidates. If you tear or deface or wrongly mark this ballot, return it and get another".

(c) The ballot for the general election shall be headed as follows: "OFFICIAL BALLOT. Candidates for election for members of the City Council of the City of Burlington at the general election", followed by the insertion of the date of such election, and "Place a cross in the squares preceding the names of the persons you favor as members of the city council. Vote for _____ members of the city council. If you tear or deface or wrongly mark this ballot, return it and get another".

(d) Neither a ballot for a primary nor a ballot for a general election shall have any party designation or mark whatever. The appropriate number of councilmen to be elected shall be printed on the ballots in the space provided therefor.

(e) Having caused the ballots to be printed, the city clerk shall cause to be delivered at each polling place a number of ballots equal to at least twice the number of persons who voted in the precinct in the last preceding general municipal election.

Section 2.43. Qualifications for voting in primary.

The persons who are qualified to vote at the succeeding general election shall be qualified to vote in a preceding primary election, and shall be subject to challenge

made by any resident of the city, and such challenge shall be passed upon by the judges and registrar of election: Provided, however, that the law applicable to challenge at the general municipal election shall be applicable to challenge made as such primary election.

Section 2.44. Candidates in general election; conduct of primary, counting of ballots and canvassing of returns.

(a) In a primary election the candidates equal in number to double the number of councilmen to be elected, receiving the highest number of votes shall be the candidates and the only candidates whose names shall be placed upon the ballot at the next succeeding general election.

(b) In all respects not covered by this subchapter the primary election shall be conducted, the ballots counted and the returns canvassed in the manner provided by subchapter D of this chapter with reference to the general municipal election.

SUBCHAPTER D. GENERAL MUNICIPAL ELECTION

Section 2.61. Time of general municipal election.

The general election for members of the city council, herein referred to as the "general municipal election", shall be held on Tuesday after the first Monday in May biennially in odd years.

Section 2.62. Qualifications for voting.

The qualifications for voting at a general municipal election shall be those required of an elector by the State Constitution.

Section 2.63. Conduct of election and counting of ballots.

(a) The registrar and judges of election shall open and close the polls, shall keep poll books in which shall be entered the name of every person who shall vote, and shall superintend the conduct the election, all in like manner as is provided by law for election of members of the General Assembly (now codified as G. S. Chapter 163). The polls shall be open on the day of election from six-thirty o'clock A. M. until six-thirty o'clock P. M. Eastern Standard Time, and no longer. At the close of the election the registrar and judges for each precinct shall certify the poll books over their proper signatures and shall deposit the poll books and registration books with the city clerk.

(b) The form of the ballots for the general municipal election shall be as prescribed by Section 2.42 of this Charter.

(c) At the end of the election, in each precinct the polls shall be closed, the ballot boxes opened, and the ballots counted by or under the supervision of the registrar and judges of election, in like manner as is provided by law for elections for members of the General Assembly (now codified as G. S. Chapter 163).

Section 2.64. Canvassing and declaration of results.

(a) The registrar and judges of election in each precinct shall appoint one of their number to attend the meeting, of the board of canvassers. The results of the counting of the ballots shall be embodied in a duplicate statement, one copy of which shall be placed in a sealed envelope and delivered to the precinct official appointed to attend the meeting of the board of canvassers, and one copy of which shall be mailed by one of the other precinct officials to the city clerk.

(b) The members of the board of canvassers shall meet at 11:00 A. M. on the day after the election at the city hall, and a majority of the members shall constitute a quorum. The city clerk shall serve as chairman of the board and the board shall elect one of its number as secretary. Any member of the board who fails to deliver the certified returns from his precinct by 12:00 noon on the day of the board meeting, shall be guilty of a misdemeanor, unless for illness or good cause shown for such failure. If any precinct returns have not been received by the board by 12:00 noon on the first day of this meeting, or if any returns are incomplete or defective, it shall have authority to dispatch an officer for the purpose of securing the proper returns for the precinct.

(c) The board of canvassers shall, at their meeting, in the presence of such electors as choose to attend, open, canvass, and judicially determine the results, and shall make abstracts, stating the number of legal ballots cast in each precinct, the name of each candidate for councilman voted for and the number of votes given to each candidate, and shall sign the abstracts in duplicate with their certificate as to the correctness of the abstracts. It shall have power and authority to pass upon judicially all the votes relative to the election and judicially determine and declare the results of the same; to send for papers and persons and examine the latter upon oath; and to pass upon the legality of any disputed ballots transmitted to them by any precinct officer.

(d) In the general municipal election the candidates equal in number to the number of councilmen to be elected, receiving the highest number of votes, shall be elected.

(e) The board of canvassers shall transmit one copy of the certified abstract of the results to the mayor and the city clerk shall file the other copy. The clerk shall publish the results at least once in some newspaper of general circulation in the city, and shall enter said results in the minutes of the city council.

(f) If no election contest, appeal or recount is pending, the city clerk within six days after the election shall furnish each of the officers who were elected a certificate of election under his hand and seal. At the same time he shall notify said officers to meet at the city hall at 10:00 A. M. on Monday following the general municipal election at the city hall to be sworn into office.

(g) If an election contest, appeal or recount is pending, the clerk shall furnish the certificates and notification within six days after the contest or appeal, or the results of the recount, have been finally determined.

SUBCHAPTER E. SPECIAL ELECTIONS

Section 2.81. Calling and conduct of special elections.

(a) The function of calling special elections within the city shall be exercised exclusively by the city council. The council may call any special election for any purpose authorized by law to be called within the city, and shall call any special election required by law to be called within the city.

(b) Registrations made and elections held under the authority of the Municipal Finance Act shall be called and conducted, the ballots counted, and the results canvassed and proclaimed, as provided by said Act. All other special elections shall be conducted by the city council with registrars and judges of election appointed by the council; and (except as otherwise provided in Sections 1.24-1.28 of this Charter)

registrations therefor shall be made, the ballots counted, and the results canvassed and proclaimed under the same rules and conditions as are provided by this Charter with respect to general municipal elections. Every special election, except as otherwise provided by law or by this Charter, shall be held on a date fixed by the council. If no date is provided by law for publishing notice of a special election, the council shall publish notice thereof one time in a newspaper of general circulation in the city at least thirty days before the date of the election.

SUBCHAPTER F. MISCELLANEOUS PROVISIONS

Section 2.101. General laws applying to county elections.

In all respects not provided for by this Charter all elections held pursuant to this Charter shall be conducted as prescribed by law for the election of members of the General Assembly. Wherever in such statutes appear the words "State Board of Elections" and "county board of elections" shall be deemed to be written "city council", and wherever appear the words "chairman of county board of elections" shall be deemed to be written the word "mayor". Nothing herein contained, however, shall be construed as providing for the designation of candidates' political party affiliations on municipal election ballots, nor as authorizing absentee registration or absentee voting by voters in the armed forces of the United States or by any other voters in any such elections.

Section 2.102. Designation of precincts and polling places.

For the purpose of elections held under this Charter, the city council may establish, define, provide, rearrange and combine one or more voting precincts and polling places within the city. Notice of alteration of existing precinct lines or polling places shall be given as provided by the general laws governing election of members of the General Assembly (now codified as G. S. 163-22). As nearly as may be practicable, the council shall make the precinct lines and polling places designated for elections held under this Charter conform to those designated for elections of members of the General Assembly.

Section 2.103. Resolution of tie votes.

If in any primary or general municipal election held under this Charter there shall be an equal number of votes cast for two or more persons, and the resulting tie must be resolved in order to determine the identity of the candidates in the general municipal election or of the persons elected therein, decision shall be made by lot between the contesting persons in a manner prescribed by the city council.

Section 2.104. Use of the voting machines.

The city council may conduct any primary, general municipal or other election authorized by this Charter using voting machines approved by the State Board of Elections instead of paper ballots under applicable rules of the State Board of Elections, which rules shall prevail in the event of conflict with this Charter.

CHAPTER III

ORGANIZATION AND POWERS OF CITY COUNCIL

SUBCHAPTER A. CITY COUNCIL; QUALIFICATIONS; VACANCIES; COMPENSATION

Section 3.01. Qualifications of councilmen; vacancies; removal.

(a) No person shall be eligible to be nominated or elected to the city council, nor to serve thereon, unless he is a qualified voter and resident of the city.

(b) No person elected to the city council, whether he qualify or not, shall, during the term for which he was elected, be elected or appointed to any other position or office of trust or profit under the city government. However, when a vacancy exists or shall occur in the office of mayor, a councilman shall not be debarred from selection as mayor for the unexpired term.

(c) If there is a vacancy in the office of councilman after election or qualification, or if any councilman be unable to discharge the duties of his office, the council shall choose some person for the unexpired term, or during his disability, as the case may be, to act as councilman. Councilmen so selected shall have all the powers and duties of regularly elected councilmen.

(d) The council, by vote of a majority of its members, shall have power to remove from office the mayor or any other councilman for misfeasance, malfeasance, corruption, neglect of duty, or other misconduct in office. A removal proceeding shall be initiated by introduction before the council of a motion, which shall include a statement of the charges alleged as grounds for the proposed removal. Before the council may take action upon such a motion, the person to be proceeded against shall have at least ten days' written notice of the introduction of the motion, accompanied by a copy of the motion. He shall have the right to be heard in person or by counsel in his defense. Two readings, each on separate days, shall be required for adoption of the motion, the introduction to constitute the first reading. A vacancy arising pursuant to this subsection shall be filled in the manner provided by subsection (c) of this Section.

Section 3.02. Compensation of councilmen.

(a) Each councilman shall receive, as compensation for his services, an amount fixed by the council, but an increase in the compensation of council members voted by the council may not be made effective until after the next succeeding general municipal election.

(b) In addition to the compensation provided for by subsection (a), councilmen may be reimbursed for actual and necessary travel expenses or other expenses incurred by them in the performance of their official duties, as allowed by the council, not exceeding the amount permitted by general law.

Section 3.03. Oaths of office.

All newly elected or appointed councilmen before entering upon their duties shall take and subscribe before the city clerk an oath to perform faithfully the duties of their offices and the oaths of office required by general law (now codified as G. S. 11-6 and 11-7). Elected councilmen shall meet at the city hall for the purpose of taking such oaths at ten o'clock A. M. on the Monday following the date of their election. A councilman appointed to fill a vacancy shall take the oaths at the next council meeting following his appointment. Any member who is not present at the time and place provided for by this Section may take the oaths at any time thereafter. In the absence of the clerk the oaths may be administered by any other person authorized by law to administer oaths of office.

SUBCHAPTER B. CITY COUNCIL; ORGANIZATION AND PROCEDURES

Section 3.21. Organizational meeting.

The organizational meeting of each council shall be held on Monday following the date of the election of its members, and following the taking of the oaths of office by the newly elected councilmen. The council shall organize by the choice from its members of a mayor and a mayor pro tem, each of whom shall hold his office as such for a term of two years and until his successor is selected and qualified. The organization of the council shall take place notwithstanding the absence, death, refusal to serve or nonelection of one or more members; provided, that at least three of the persons entitled to be members are present and (if necessary) take oath.

Section 3.22. Regular and special meetings.

(a) The council shall fix suitable times for its regular meetings. The mayor, the mayor pro tem, or any two members of the council may at any time call a special meeting by signing a written notice stating the time of the meeting to be delivered to each member or left at his usual dwelling place at least six hours before the meeting. Meetings of the council may also be held at any time when all members of the council are present or consent thereto. It shall not be necessary to state in the notice of a special meeting the business to be transacted; and, except as otherwise provided by law, any business may be transacted at a special meeting that might be transacted at a regular meeting.

(b) Except where otherwise specifically provided by this Charter, the city council shall have authority to determine the time and place of council meetings, to make such provisions as it may deem wise relative to regular, special, adjourned and continued meetings, to adopt rules of procedure, and generally to regulate the time, place, manner and method of the exercise of its powers. No ordinance, resolution, rule or directive may be adopted, amended or repealed, however, except in a public meeting. All meetings shall be held within Alamance County except in the case of an emergency. In the event the council is authorized or required by law to hold a joint meeting with the governing body of another municipality or political subdivision of the State of North Carolina, it may at its election meet with the other governing body at a designated place within the area subject to the jurisdiction of the other governing body.

Section 3-23. Quorum; votes.

(a) A majority of the members of the city council shall constitute a quorum to do business, but a lesser number may adjourn from time to time and compel the attendance of absent members by ordering them to be taken into custody.

(b) No member shall be excused from voting except upon matters involving the consideration of his own official conduct or involving his financial interest. In all other cases a failure to vote by a member who is present or who, having been present, has withdrawn from the meeting without being excused, shall be deemed an affirmative vote and shall be so recorded. A member who has withdrawn from a meeting without being excused shall be counted as present for purposes of determining whether or not a quorum is present.

SUBCHAPTER C. CITY COUNCIL: POWERS AND DUTIES

Section 3.41. General powers of city council.

(a) The government of the city and the general management of the city shall be vested in the city council, except that the city manager shall have the powers hereinafter specified.

(b) In addition to other powers conferred upon it by law, the city council may adopt and provide for the execution of such ordinances, rules and regulations, not inconsistent with this Charter, as may be necessary or appropriate to protect health, life or property, or to preserve or promote the comfort, convenience, security, good order, better government or general welfare of the city or its inhabitants; may enforce the same by imposing penalties on such as violate them; and may compel the performance of the duties imposed upon others, by suitable penalties.

SUBCHAPTER D. CITY COUNCIL: ORDINANCE PROCEDURE

Section 3.61. Applicable general laws.

Except as otherwise herein provided, the adoption, amendment, repeal, pleading and proving or ordinances shall be governed by provisions of general law applying to cities.

Section 3.62. Adoption of ordinances and resolutions.

The affirmative vote of a majority of the members of the city council shall be necessary to adopt any ordinance or resolution. Notwithstanding the provisions of G. S. 1607270, an ordinance may be finally passed on the date on which it was introduced by vote of a majority of the members of the council.

Section 3.63. Code or compilation of ordinances; proving of ordinances.

(a) The city council may adopt and provide for the issuance and distribution of a codification or compilation of the city ordinances. Any such code of compilation may consist of two separate parts, the general ordinances and the technical ordinances. The technical ordinances may be published in sections and may include ordinances regarding the construction of buildings, the installation of plumbing or electric wiring or gas or oil appliances or equipment, and use of the public sewerage system, the zoning ordinance, the privilege license tax ordinance, and other technical ordinances designated as such by the council. The council may provide for the omission from the code or compilation of designated classes of ordinances, which, in its judgment, need not be included because of their limited interest or transitory nature.

(b) Any of the following shall be admitted in evidence in all courts and shall have the same force and effect as would an original ordinance:

(1) An official code or compilation of ordinances which: (i) sets forth the ordinances in question; (ii) is reproduced by the process of printing, mimeographing, photoduplication, or similar process; (iii) is issued as a securely bound book or books with periodic, separately bound supplements; and (iv) is certified by the city clerk, both as to the original volume or volumes and the supplements, as having been adopted by the city council.

(2) An official code or compilation of ordinances which meets the requirements of items (i) and (ii) of paragraph (1), above, but which is issued as a loose-leaf book or books and is certified by the clerk as having been prepared and maintained pursuant to action by the city council.

(3) A photographed, typed or other copy of an ordinance, as set out in the minute books of the city council or as set out in an official code or compilation of ordinances, certified by the clerk as a true copy.

The burden of pleading and proving the existence of any modification or repeal of an ordinance, a copy of which has been duly pleaded or submitted in evidence, shall be upon the party asserting such modification or repeal.

(c) The official copy of the Burlington code (or compilation) of ordinances, whether said code or compilation is issued in bound or loose-leaf form, shall be kept in the office of the clerk. It shall be the duty of the clerk to insert at the appropriate places in any loose-leaf code or compilation all amending or supplementing ordinances, and to extract from said code or compilation all provisions which from time to time may be repealed by the city council.

Section 3.64. Codification of certain zoning, traffic and related ordinances by appropriate entries upon official map books.

(a) The city council may provide that any one or more classes of ordinances concerning the matters enumerated in subsections (b) and (c) of this Section shall be codified by appropriate entries upon official map books to be retained permanently in the office of the clerk. Such entries shall be made by or under the direction of some official designated by the council. In conjunction with the introduction of every proposed ordinance concerning any of these matters a map of the affected area shall be presented to the council, but failure to present such a map shall not affect the validity of the ordinance.

(b) The ordinances referred to in subsection (a) include all ordinances establishing or amending boundaries of any zoning district under zoning regulations.

(c) The ordinances referred to in subsection (a) also include all ordinances:

(i) Designating the location of official traffic control devices; (ii) designating areas or zones where restrictions, prohibitions or other controls are applied with respect to parking, loading, bus stops, and taxicab stands; (iii) establishing speed limits; (iv) designating the location of through streets, stop intersections, yield right-of-way intersections, waiting lanes, one-way streets, and truck traffic routes; and (v) establishing restrictions, prohibitions or other controls upon vehicle turns at designated locations.

(d) Photographic copies of any part of such official map books, certified by the clerk, shall be admitted in evidence in all courts and shall have the same effect as would the original map book.

SUBCHAPTER E. MAYOR

Section 3.81. Powers and duties of mayor.

(a) The powers and duties of the mayor shall be such as are conferred upon him by this Charter or by general law, together with such others as may be conferred by the city council pursuant to law.

(b) The mayor shall preside at all meetings of the city council and shall have the right to vote upon all questions, but shall have no additional vote in case of a tie and no veto. He shall be considered a member of the council for all purposes. He

shall be recognized as the official head of the city by the courts for the purpose of serving civil process and by the public for all ceremonial purposes. He shall have the power to administer oaths.

Section 3.82. Mayor pro tem.

During the disability of the mayor or his absence from the city, the functions of his office shall devolve upon the mayor pro tem. The mayor pro tem shall preside at all council meetings in the absence of the mayor.

CHAPTER IV. ADMINISTRATIVE OFFICES POWERS AND PROCEDURES
SUBCHAPTER A. CREATION AND FUNCTIONS OF DEPARTMENTS, OFFICES
AND OTHER AGENCIES IN GENERAL

Section 4.01. Offices, positions, departments and other agencies continued by charter or created by council.

(a) The following offices and positions, in addition to those provided for by Chapter III of this Charter, are hereby continued by this Charter: City manager, city clerk, city attorney, chief of police, and fire chief.

(b) The city council may create, change, abolish, and consolidate offices, positions, departments, boards, commissions, and agencies other than those established or continued by the preceding subsection. The council by ordinance may assign additional functions or duties to offices, positions, departments and agencies established or continued by this Charter (and may revise their titles accordingly), but may not discontinue or assign elsewhere any functions or duties assigned by this Charter to a particular office, position, department or agency. In exercising the powers granted by this subsection, the council in its discretion may proceed without regard to the provisions or limitations of existing law.

SUBCHAPTER B. CITY MANAGER

Section 4.21. City manager; appointment, qualifications, term, compensation, and oath.

(a) The city council shall appoint a city manager, who shall be the administrative head of the city government, and shall be responsible for the administration of all city departments. He shall be appointed with regard to merit only and need not be a resident of the city when appointed.

(b) The city manager shall hold office during the pleasure of the city council, and he shall receive such compensation as it may fix by ordinance.

Section 4.22. City manager; powers and duties.

The city manager shall (1) be the administrative head of the city government and, as such, shall be responsible for the administration of all city offices, positions and departments, created by or under this Charter; (2) see that within the jurisdiction of the city the laws of the State and the ordinances, resolutions and regulations of the city council are faithfully executed; (3) attend all meetings of the council, and recommend for adoption such measures as he shall deem expedient; and (4) make reports to the council from time to time upon the affairs of the city, and keep the council fully advised of the city's financial condition and its future financial needs.

SUBCHAPTER C. PERSONNEL

ARTICLE 1. APPOINTMENTS AND REMOVALS

Section 4.61. Appointment, removal and supervision of department heads and employees by city manager.

(a) The city manager, except as otherwise provided in this Charter, shall appoint and may suspend and remove all city employees and heads of city departments and offices.

(b) Except where expressly authorized by the Charter, neither the council nor any of its members shall take any part in the appointment or removal of department heads, offices or employees who are subject to appointment by the manager. Except for the purpose of inquiry or investigation, the council and its members shall deal with said department heads, officers and employees through the manager, and neither the council nor any of its members shall give orders to any subordinate of the manager, either publicly or privately.

(c) Subject to the provisions of this Charter, the department heads, officers and employees subject to appointment by the city manager shall perform such duties as may be required of them by the manager, under general regulations of the city council.

Section 4.62. Appointment and removal of members of boards and commissions.

Except as otherwise provided by this Charter and notwithstanding any other provision of law, the city council shall appoint and may suspend and remove: (1) All members of boards and commissions which are created pursuant to this Charter, unless the council provides to the contrary; (2) all members of boards and commissions who are subject to appointment by the council at the time of adoption of this Charter, unless the council provides to the contrary; and (3) all members of any city board or commission created pursuant to any law enacted after the adoption of this Charter, unless said law provides to the contrary.

Section 4.63. Absence or disability.

(a) The city manager may (1) designate a deputy or deputies to perform the functions of any city officer or department head subject to appointment by the manager whenever such officer or department head is absent from the city, sick, or otherwise unable to act; and (2) from time to time designate deputies to perform the functions of such officers or department heads during particular absences or disabilities.

(b) The city council may exercise the powers set forth in the preceding subsection with respect to any official subject to appointment by it.

ARTICLE 2. COMPENSATION, PERSONNEL POLICIES

Section 4.71. Classification and compensation of employees and officers.

The city manager shall be responsible for the preparation of position classification and pay plans which shall be submitted to the city council for approval. Said plans may apply to any or all employees of the city and of any of its agencies and offices (including elective offices and judicial agencies). Salaries of employees shall be fixed by the manager within salary ranges approved by the council.

Section 4.72. Personnel policies.

The city council may adopt ordinances, consistent with applicable laws: (1) Concerning annual leave, sick leave, hours of employment, and holidays; and (2) concerning other personnel policies (including policies relating to working conditions).

Said ordinances may apply to any or all employees of the city and of any of its agencies and offices (including elective offices and judicial agencies).

ARTICLE 3. RETIREMENT AND INSURANCE

Section 4.81. Public liability insurance and loss and theft insurance covering certain employees.

(a) The city may purchase and pay the premium on a public liability insurance policy or policies to protect and hold harmless from loss any city employee or employees engaged in occupations found by the city council to be hazardous to the public generally.

(b) The city may purchase and pay the premium on an insurance policy or policies to protect and hold harmless from loss by disappearance, theft, or means other than the wrongdoing of the insured employee or employees, any city employee or employees who are engaged in duties which require them to be responsible for public funds.

SUBCHAPTER D. FINANCES AND FISCAL MATTERS

ARTICLE 1. TAXATION

Section 4.111. General authority to levy and collect taxes.

To raise revenue for defraying expenses incident to the proper government of the city, the city council may annually levy and collect (1) a tax on real and personal property and on all other property subject to taxation; (2) a tax on all businesses, trades, professions, avocations, privileges, and franchises, carried on or enjoyed within the city; and (3) any other taxes permitted by general law.

Section 4.112. Levy, collection and payment of property taxes.

(a) Except as otherwise herein provided, property taxes shall be imposed and collected in the manner provided by general law.

(b) Property taxes shall become due and payable on the date provided by general law. Interest shall be charged for late payment, and discounts may be allowed for prepayment of taxes, in the amounts and during the periods covered by general law.

Section 4.113. Additional remedies for collection of privilege license taxes.

In addition to any other civil or criminal remedy available to enforce the collection of privilege license taxes, the city may employ the remedies of levy upon personal property, attachment and garnishment, in the manner of and subject to the limitations provided in G. S. 105-385(c) through (g).

ARTICLE 2. BORROWING

Section 4.121. Borrowing authority and procedures.

The city shall be governed by applicable general laws concerning borrowing authority and procedures.

ARTICLE 3. BUDGETING, ACCOUNTING, FISCAL AFFAIRS

Section 4.131. Application of Municipal Fiscal Control Act.

Subject to the provisions of this Charter, all of the provisions of the Municipal Fiscal Control Act (now codified as Article 33 of G. S. Chapter 160) shall apply to the City of Burlington.

Section 4.132. Reserve funds.

The city at its discretion may establish reserve funds under the authority of Chapter 920 of the N. C. Session Laws of 1955 (relating to establishment of special reserve funds by municipalities in Alamance County) or under the authority of applicable general laws.

Section 4.133. Investment of proceeds of the sale of bonds and other surplus funds.

(a) The city council, or the mayor, the city manager and the treasurer acting jointly with authority granted by ordinance, shall from time to time carefully analyze the amount of cash in the general fund of the city and in all special funds of the city credited to any special purpose, and all proceeds from the sale of bonds heretofore or hereafter issued by the city. When in the opinion of the city council, or the mayor, city manager and treasurer, acting jointly, it is determined that the cash in any fund is in excess of the amount required to meet current needs, the council, or the mayor, manager and treasurer, acting jointly, may deposit excess funds at interest with an official depository in the city upon terms authorized by applicable laws of the United States and the State of North Carolina, or invest in shares of any building and loan association organized and licensed under the laws of the State of North Carolina, or in shares of any Federal savings and loan association organized under the laws of the United States and having its principal office in this State; or invest excess funds in bonds or certificates of indebtedness or treasury bills of the United States of America, or in bonds, notes or other obligations of any agency or instrumentality of the United States of America when the payment of principal and interest thereon is fully guaranteed by the United States of America, or in bonds of the City of Burlington, North Carolina, or in certificates of deposit issued by banks or official depositories within the City of Burlington, North Carolina. No funds may be invested, however, in building and loan associations unless and until authorized by the Insurance Commissioner, or in case of shares of a Federal savings and loan association, unless and until authorized by an officer of the Federal Home Loan Bank.

(b) The funds shall be so invested that, in the judgment of the council, or of the mayor, manager and treasurer, acting jointly, they may be readily converted into money as needed. Earnings from the investment of proceeds of sale of bonds may be applied to the payment of the interest or principal of the bonds from the sale of which the proceeds were derived, or may be applied as increment to the proceeds. Earnings received on deposits and the income from investments, other than the investment of the proceeds from the sale of bonds, unless otherwise required by law, shall be paid into the city's general fund. Nothing in this Section shall be construed as permitting moneys realized from the investment of the proceeds of the sale of City of Burlington bonds to be used for any purpose other than the purpose for which the bonds were authorized.

(c) The city council or the mayor, manager, and treasurer, acting jointly, may make deposits in designated depositories to the extent that the depositories have qualified to receive such deposits under the law, and may purchase and sell the securities or investments hereinabove set out privately and without notice, but no such securities or investments shall be purchased at more than the market price thereof nor

sold at less than the market price thereof. The city may pay all costs of every nature incident to the purchase and sale of securities.

(d) When the United States Government securities hereinabove mentioned are purchased and sold in New York City, New York, and it is not deemed practical to transport any or all of such securities from New York to Burlington and from Burlington to New York, the city council is authorized to name a bank or banks with which such securities may be left in a safekeeping account, either in the name of the city or in the name of a Burlington bank, designated by the city council as a bank which may hold for the city such securities in its customer's account with a New York bank or banks likewise designated by the city council. No security shall be required for the protection of securities or investments thus held for safekeeping. No city officer or employee, including the officer or employees having charge or custody of city funds, or the surety or sureties on any official bond, shall be liable for any losses sustained when United States securities and investments are deposited or left with any bank or banks in the manner hereinabove authorized.

SUBCHAPTER E. PROCUREMENT AND PROPERTY MANAGEMENT
ARTICLE 1. CONTRACTING, PURCHASING AND PROPERTY MANAGEMENT
PROCEDURES

Section 4.151. Contracting procedures; authentication of documents.

(a) No contract shall be binding upon the City of Burlington unless it is either (1) made by ordinance or resolution of or motion adopted by the city council; or (2) reduced to writing and approved by the council; or (3) authorized by ordinance or resolution specifically referring to a particular contract or generally referring to a class of contracts which may be executed by a designated official or officials on behalf of the city.

(b) Except where otherwise provided by law or except where a contract is made by the city council pursuant to subsection (a) (1) of this Section, all contracts, licenses and other public documents of the city shall be signed by the city manager or some person designated by him and shall be authenticated by the city clerk. The manager shall file with the council a written memorandum of any designation by him of a person to sign documents, and such memorandum shall be recorded in the minutes of the council.

(c) In all respects not provided for by this Charter, formal requirements concerning the making and execution of contracts by the city shall be governed by general law.

ARTICLE 2. SALE AND DISPOSITION OF PROPERTY

Section 4.161. Sale of surplus real property.

(a) Whenever the city owns any real estate which is not required for public purposes, said real estate may be sold by the city in the manner provided by this Section.

(b) When an offer is received for any such property, the city council may cause notice to be published in any newspaper of general circulation published in the city (or if there is no such newspaper, then in any newspaper of general circulation published in Alamance County), once each week for two successive weeks. Said notice

shall set forth a general description of the property, the amount offered therefor, and a statement that unless said offer is raised within fifteen days following the first publication, by a bid exceeding the original offer by such percentage as the council may fix and set forth in said statement (not exceeding ten per centum on the first one thousand dollars (\$1,000.00), and five percentum thereafter), the council will, in its discretion, proceed to authorize and complete the sale. Upon the expiration of fifteen days following first publication of said notice, if no increased bid has been made as herein set forth, the council may, in its discretion, authorize the sale and order execution of an appropriate conveyance therefor upon payment of the purchase price. If an increased bid is submitted in the manner herein provided, the council may advertise said bid in the same manner as the original bid. The council may, in its discretion, in connection with any such bid or increased bid, require that the bidder give security or make a deposit, in such amount as the council may fix, to be forfeited upon failure of the bidder, after acceptance of his bid, to pay the purchase price and take delivery of the deed.

(c) The provisions of this Section shall be construed as in addition to all other provisions of law authorizing or prescribing the method of sale of real property owned by the city.

Section 4.162. Conveyances with covenants of warranty.

(a) The city council is hereby authorized to execute and deliver conveyances to any property, whether acquired by tax or assessment foreclosure or otherwise, with full covenants of warranty whenever in its discretion it is to the best interest of the city to convey by warranty deed.

(b) Members of the city council are hereby relieved of any personal or individual liability by reason of the execution of any such conveyances with covenants of warranty.

Section 4.163. Quitclaims of city property.

The city may quitclaim any rights it may have in property not needed for public purposes upon report by the city manager and adoption of a resolution by the city council, both finding that the property is not needed for public purposes and that the interest of the city has no readily ascertainable monetary value.

Section 4.164. Conveyance to abutting owners of small parcels of land cut off from city-owned tracts by street improvements.

Whenever in opening, extending or widening any street, avenue, alley or public place of the city a small parcel or tract of land is cut off or separated by such work from a larger tract or boundary of land owned by the city, the city council may authorize the city manager to execute and deliver in the name of the city a deed conveying said cutoff or separated parcel or tract of land to an abutting or adjoining property owner or owners in exchange for rights-of-way for said street, avenue, alley or public place or in settlement of any alleged damages sustained by said abutting or adjoining property owner. All deeds and conveyances heretofore or hereafter so executed and delivered shall convey all title and interest the city has in such property, notwithstanding no public sale after advertisement was, or is hereafter, made.

Section 4.165. Sale of personal property of less than twenty-five hundred dollars (\$2500.00) value.

Notwithstanding any other provision of law, the city council may sell or exchange without advertisement and at either public or private sale any personal property not exceeding twenty-five hundred dollars (\$2500.00) in value at the time of sale.

Section 4.166. Sale of surplus personal property of less than two hundred and fifty dollars (\$250.00) value.

(a) The city manager, in the manner provided by subsection (b) of this Section, may sell any surplus, unused or obsolete personal property belonging to the city and having in his judgment at the time of the publication of the notice provided for in subsection (b) of this Section a market value of no more than two hundred and fifty dollars (\$250.00). The manager may make title to any property sold hereunder.

(b) Such property may be sold at public outcry, after one week's public notice, to the highest bidder. Such property may also be sold, when the manager shall determine it is in the public interest, upon sealed bids after one week's public notice, to the highest bidder. Sealed bid proposals shall be opened in public and recorded on the minutes of the council. The public notice shall state the time and place for opening of proposals and shall reserve to the manager the right to reject all bids.

(c) It shall not effect the validity of a sale conducted hereunder that the property was actually sold for more than two hundred and fifty dollars (\$250.00).

(d) Property may be sold hereunder without regard to the requirements of G. S. Chapter 160, Article 6, or of any other law governing the procedure for sale of municipal property. The powers granted herein are in addition to and not in substitution for existing powers granted by law for the sale of city property, both with respect to property having a value of more than two hundred fifty dollars (\$250.00) and with respect to property having a value of less than two hundred and fifty dollars (\$250.00).

SUBCHAPTER F. OTHER DEPARTMENTS, OFFICES AND AGENCIES

ARTICLE 1. CITY CLERK

Section 4.181. City clerk.

(a) The city manager shall appoint an official who shall have the title of city clerk.

(b) The city clerk shall: (1) Keep a journal of council proceedings; (2) record in a book kept for the purpose all ordinances and resolutions; (3) be the custodian of all city records; and (4) perform such other duties as are prescribed by law or by this Charter, or as shall be required by the city council.

ARTICLE 2. POLICE AND FIRE ADMINISTRATION

Section 4.191. Powers and duties of chief of police and policemen.

The chief of police, each member of the police force, and any special policeman designated by the chief of police shall have the powers of peace officers vested in the sheriffs and constables, for the following purposes: For the purpose of enforcing city ordinances and regulations, of preserving the peace of the city, of suppressing disturbances and apprehending offenders, and for serving civil process. Such powers may be exercised within the corporate limits of the city and one mile

beyond, within the limits of the watershed of the city water supply, and upon city real property wherever located.

Section 4.192. Travel expenses of police officers transporting persons charged with crime.

The city may appropriate and expend city funds for the payment of reasonable travel expenses of city police officers in transporting or returning persons charged with crime from a point outside the corporate limits of the city.

Section 4.193. Powers of firemen on duty during fires.

The fire chief and his assistants, while on duty during fires, shall have the powers conferred upon police officers by Section 4.191 of this Charter, and are authorized to make arrests without warrants for interference with or obstructions to their operations.

CHAPTER V. REGULATORY AND PLANNING FUNCTIONS

SUBCHAPTER A. MOTOR VEHICLES AND TRAFFIC

Section 5.01. Location of traffic control devices.

(a) The city council may authorize an official to designate the location of any or all official traffic control devices, upon a determination by him in each case: (1) If such a device is to be installed by him at a particular location, that its installation is necessary in order to control traffic congestion in the interest of public safety; (2) if such a device is to be moved or removed from a particular location, that the device is no longer required at such location for the control of traffic congestion in the interest of public safety.

An "official traffic control device", as used in this Section, is a sign, signal, marking, or device, including a parking meter, which is intended to regulate vehicular or pedestrian traffic.

(b) Whenever an official traffic control device is installed, moved or removed pursuant to the preceding subsection, such action shall be reported in writing at the next regular council meeting and, unless reversed by the council, shall be recorded in the minutes of the council.

(c) For purposes of enforcement, the installation or moving or removing of a traffic control device pursuant to subsection (a) shall take effect immediately when such a device is installed, moved or removed. The location of a traffic control device may be proved by the testimony of the official who designated its location in any case where an offender is brought to trial before the action is recorded in the minutes of the council.

(d) The installation or moving or removing of a traffic control device pursuant to the provisions of this Section shall have the force and effect of an ordinance, and failure to obey any such device shall be punishable as a violation of an ordinance.

Section 5.02. Obstruction of alleys.

If, in the opinion of the city council, a fire hazard is created by the obstruction of private alleys, the council may adopt regulations governing the obstruction of private alleys, either by reason of the parking of motor vehicles or otherwise.

Section 5.03. Regulation of ambulances and wreckers.

The city council may establish regulations governing the operation of ambulances, wreckers, and other motor vehicles used in connection with emergencies, disasters, or accidents.

SUBCHAPTER B. OCCUPATIONAL AND BUSINESS LICENSING AND REGULATION

Section 5.21. General powers of city council to regulate occupations and businesses.

The city council is authorized to regulate or to license any occupations, businesses, trades, or forms of amusement or entertainment in the interest of the public health, welfare, order or safety, and to prohibit such as may be inimical to the public health, welfare, order or safety.

Section 5.22. Liability insurance or surety bond to be furnished by demolition contractors.

(a) The city council may require every demolition contractor to furnish and keep in effect, for each building demolition project in the City of Burlington he may undertake (or as a condition of engaging in the business of building demolition in the City of Burlington), a policy of insurance or surety bond with sureties whose solvency shall at all times be subject to the approval of the council. The policy or bond shall be in such amount or amounts as may be fixed by the council and shall be conditioned upon such contractor responding in damages for any liability incurred on account of any injury to persons or damage to property resulting from the prosecution of the demolition project, but the total liability of the contractor under such policy or bond shall not exceed the sum of one hundred thousand dollars (\$100,000.00). The policy or bond, if required, shall be filed with the council as a condition precedent to conducting any building demolition project in the City of Burlington.

(b) As used in this Section, the term "demolition contractor" means a person, firm or corporation who undertakes on his account or for another (whether for an agreed price or for cost plus a fixed fee or otherwise) to raze, dismantle or demolish a building.

SUBCHAPTER C. PLANNING, ZONING, BUILDING REGULATIONS AND RELATED MEASURES

ARTICLE 1. SUBDIVISION CONTROLS

Section 5.41. Authority to require installation of certain improvements prior to approval of plats.

(a) In connection with subdivision or platting controls, the city council may require the improvement and grading of streets and the construction and installation of street pavements, curbs, gutters, sidewalks, and water, sewer, surface water drainage, and other utility mains, as a condition precedent to the approval of a plat. The requirements may provide for tentative approval of the plat previous to such improvements and installation; but any such tentative approval shall not be entered on the plat. The requirements may provide that in lieu of completion of the work and installations prior to final approval of the plat, the council may accept a bond, in an amount and with surety and condition satisfactory to it, providing for and securing to the city the actual construction and installation of the improvements and utilities within

a period specified by the council and expressed in the bond. The city is empowered to enforce the bond by all appropriate legal and equitable remedies. Requirements adopted under this subsection may be adopted throughout the area over which the city is authorized by law to exercise platting or subdivision controls.

(b) The requirements may provide, in lieu of the completion prior to the final approval of the plat of such work and installation on land within the corporate limits of the city, for an assessment under this Charter or under G. S. Chapter 160, Article 9, or other statutory authorization whereby the city may do the work and make the installations at the cost of the owners of the property within the subdivision.

Section 5.42. Authority to require reservation of recreation areas and school sites.

In connection with subdivision or platting controls, the city council may require the reservation for a period of not longer than two years (subject to future acquisition by purchase or condemnation by a governmental unit or agency) of recreation areas and of school sites, as a condition precedent to the approval of a plat.

Section 5.43. Territorial extent of powers.

The authority conferred by Sections 5.41 and 5.42 of this Charter may be exercised throughout the area within which the city council is now or hereafter empowered to regulate the platting and recording of any subdivision of land.

ARTICLE 2. BUILDING REGULATIONS

Section 5.51. Power to destroy property to stop fires.

The mayor, the city manager, a member of the city council, or the chief of the fire department may order the blowing up, tearing down or other destruction of any building when it is deemed necessary to stop the progress of a fire. No person shall be held liable, civilly or criminally, for acting in obedience to orders thus given, nor shall the city, the mayor, the city manager, the council member or the fire chief be held liable, civilly or criminally, for the giving of such orders or for damages to property ordered destroyed.

ARTICLE 3. ULTIMATE STREET IMPROVEMENTS

Section 5.61. Intent and purpose.

It is the intent and purpose of this Act to provide a method whereby the City of Burlington may make provision for the ultimate widening or extension, or both, of existing streets and highways and for the opening of new streets and highways by the establishment of proposed street lines, and for the gradual acquisition of the lands necessary for such improvements.

Section 5.62. Platting of street lines.

From and after the time of adoption of a major street plan by the city council and the State Highway Commission pursuant to provisions of G. S. 136-66.2, the city council shall have the power to request, make, or cause to be made, from time to time, surveys for the exact locating of the lines of new, extended, widened, or narrowed streets and highways in the whole or any portion of the city and the area within one mile outside of its corporate boundaries. Personnel making such surveys are empowered to enter upon lands, make examinations or surveys, and place and maintain necessary monuments thereon, at reasonable times and with due care for the property. A plat or

plats of the area or areas thus surveyed shall be prepared on which are indicated the locations of the lines recommended as the planned or mapped lines of future streets, street extensions, street widenings, or street narrowings. The preparation of such plat or plats shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes.

Section 5.63. Establishment of proposed street lines.

Following the preparation of such plats, the city council may officially adopt a map or maps of planned new streets and highways, widenings, narrowings, or vacations, within the city and the area within one mile outside of its corporate boundaries. Before taking any such action, the council shall hold a public hearing thereon, notice of the time and place of which shall have been given once a week for two successive weeks in a newspaper published in the city, or if there be no newspaper published in the city, by posting such notice at four public places in the city and at four public places within any affected area lying outside of the corporate boundaries. Said notice shall be published or posted for the first time not less than 15 days prior to the date fixed for said hearing. Following adoption of such a map or maps, the council shall certify a copy to the Register of Deeds of Alamance County, which copy shall be duly filed. The placing of any street or street line upon this official map or maps shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes.

Section 5.64. Right of city to acquire property before improvement.

From and after the time when any such map or maps shall have been adopted and certified to the register of deeds, it shall be unlawful to build upon any land within the lines of proposed streets shown thereon or to repair or otherwise improve any existing buildings within said lines until the city council shall have been given an opportunity to purchase or otherwise acquire said property for street purposes as provided by this Article. To that end, any person proposing to build upon such land or to make repairs or improvements to any existing buildings on such land shall, in writing, notify the city council of the nature and estimated cost of such building, repairs, or improvements. The council shall then determine whether it will take the necessary steps to acquire said land prior to the construction of said building or the making of such repairs or improvements. If it fails, within 60 days from the receipt of such notice, to acquire, adopt a formal resolution directing an appropriate officer to acquire, or institute condemnation proceedings to acquire said property, the owner or other person giving notice may proceed to erect the building or to make the repairs or improvements described in said notice.

Section 5.65. Owner failing to give notice cannot recover for value of improvements.

If any person, firm, or corporation builds upon any land included with said proposed street lines, or repairs or otherwise improves that part of any existing building within said lines, without giving the city council an opportunity to acquire said land free from said improvements, as provided in Section 5.64 of this Charter, the council shall not be required to pay for the value of said building, repairs, or improvements in any

proceeding subsequently brought to acquire the land for the purpose shown on the officially adopted map.

Section 5.66. Failure of city to act does not limit power subsequently to condemn.

The failure of the city council to take action under Section 5.64 of this Charter within 60 days after notice shall not have the effect of limiting the right of the council at any subsequent time to condemn the same. But in such case, the owner shall be entitled to full compensation as now provided by law for the building, repair, or improvements made after the giving of notice required by Section 5.64.

Section 5.67. Powers hereby conferred are supplementary.

The powers granted to the City of Burlington by this Article are supplementary to any powers heretofore or hereafter granted by general or special laws for the same or a similar purpose; and in any case where the provisions of this Article conflict with or are different from the provisions of any other Act, the city council may in its discretion proceed in accordance with the provisions of either Act.

SUBCHAPTER D. UTILITY REGULATION

Section 5.81. Power to regulate railroads.

In addition to its powers under general laws, the City of Burlington shall have the power to require any railroad or railway company to keep in good repair any grade crossings over its tracks and to construct and keep in repair from curb to curb railroad bridges and crossings over all ditches running under any grade crossings; to make reasonable rules regulating the laying and construction of railroad tracks, turnouts and switches over the streets at grade crossings, so that said tracks, turnouts and switches shall interfere as little as may be reasonable with travel over said streets at such grade crossings; and to regulate the grade of all the streets of the city as they may hereafter be or are now established, except as herein otherwise provided.

CHAPTER VI. CITY SERVICES AND FACILITIES

SUBCHAPTER A. ESTABLISHMENT AND MAINTENANCE OF SERVICES AND FACILITIES

ARTICLE 1. LOCAL DEVELOPMENT

Section 6.01. Authority to levy tax for local development.

Nothing contained in this Charter shall affect the power of the City of Burlington to levy taxes for local development purposes under G. S. Chapter 158, said Chapter having been approved by the voters of the City of Burlington in an election held December 15, 1925.

SUBCHAPTER B. EMINENT DOMAIN

Section 6.41. Authority to acquire needed property; procedure for condemnation of property.

(a) The City of Burlington, acting through its city council, shall have authority to purchase or acquire by condemnation for any lawful public use or purpose any land, right of access, right-of-way, water right, privilege, easement, or any other interest in or relating to land or water, either within or beyond the city limits, including the dwelling house, yard, kitchen, garden, or burial ground of any person. In the exercise of said power for street purposes the city may extend any street over the tracks,

right-of-way or land of any railroad, notwithstanding any structure or building that may be in the way of such proposed extension, and shall make compensation therefor as by law provided, taking into consideration the special benefits which the owner will receive.

(b) The procedure in all such condemnation proceedings shall conform as nearly as possible to the procedure provided in G. S. Chapter 40, Articles 1 and 2, and all Acts amendatory thereof, except that the restrictions contained in G. S. 40-10 shall not apply to the City of Burlington.

SUBCHAPTER C. ASSESSMENTS FOR LOCAL IMPROVEMENTS

Section 6.61. Authority to make local improvements.

The city council shall have authority to make the local improvements described in this Charter, and to assess the cost against benefited property. The procedure set forth in this subchapter shall not be exclusive, but shall be in addition to any other procedure provided by law.

Section 6.62. Separate proceedings not required.

One or more local improvements may be made in a single proceeding, and assessments for one or more local improvements, may be combined.

Section 6.63. Definitions.

Certain words and phrases will be used with the following meanings with reference to local improvements, unless some other meaning is plainly intended.

(a) A "street" is the entire width between property lines of every way or place, of whatever nature, when any part thereof is dedicated or open to the use of the public as a matter of right for the purpose of vehicular or pedestrian traffic.

(b) A "sidewalk" is the part of a street which is used, or to be used, for pedestrian traffic.

(c) A "storm sewer" is a conduit above or below ground for the passage of storm water, and may include a pumping station and outlet where deemed necessary, and may also include the building of culverts over or the enclosing of streams where needed to carry off storm water.

(d) A "sanitary sewer" is an underground conduit for the passage of sewage and may include a pumping station and outlet.

(c) A "water main" is a pipe for the passage of city water for public hydrants and private and public use and consumption.

(f) A "lateral" is a pipe connecting a storm or sanitary sewer or water main with the line of adjacent property or the curb line, being either a sewer lateral or water lateral, but does not include a building connection, that is, a pipe extending from a lateral at the property line or curb line to the house or plumbing fixture to be served,

(g) A "roadway" is the part of a street which is used, or to be used, for vehicular traffic.

(h) The word "sewer" includes both sanitary and storm sewers unless a contrary intention is shown.

Section 6.64. Improvements described.

The council shall have authority to make the following local improvements:

(a) Roadway paving improvements, which include the grading, regrading, paving, repaving and widening of roadways, or the improvement thereof with any treatment designed to provide an improved wearing surface, with necessary drainage, sewer inlets, manholes and catch basins and the construction or reconstruction of retaining walls made necessary by any change of grade incident to such improvement, and in any case where the improvement is made upon petition if the petition so requests, or in any case where the improvement is made without petition if the council so directs, it may include the construction or reconstruction of curbs, gutters, drains, and sidewalks.

(b) Water main improvements, which include the laying or construction of water mains, the relaying where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such mains, and, in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the council so directs, the laying of water laterals.

(c) Sanitary sewer improvements, which include the laying or construction of sanitary sewers, the relaying, where necessary, of parts of roadways and sidewalks torn up or damaged by the laying or construction of such sewers, and in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the city council so directs, the laying of sanitary sewer laterals.

(d) Storm sewer improvements, which include the laying or construction of storm sewers, the relaying, where necessary, of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such sewers, and in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the council so directs, the laying of storm sewer laterals.

(e) Sidewalk improvements which include the grading, regrading, construction, reconstruction and repair of paved or other improved sidewalks, the construction or reconstruction of retaining walls made necessary by and incident to such improvements, and, in any case where the improvement is made upon petition, if the petition so requests, or in any case where the improvement is made without petition if the council so directs, it may include the construction or reconstruction of curbs, gutters and drains, and the construction or reconstruction of all such portions of driveways as in the judgment of the council ought to be laid in the street area.

(f) Grass plot improvements, which include the grading and planting of grass plots in a street.

Section 6.65. Water and sewer mains between streets.

Whenever the council finds it in the public interest, and it will be more economical and the interest of the property owners will best be served by constructing either water or sanitary sewer mains, or both, between streets rather than in a street, the petition may provide therefor, or in the event the water and sanitary sewer mains may be constructed in a street without petition, they may be constructed between streets without petition. The cost of the construction of such water or sewer mains and laterals shall be

assessed according to the street frontage in the same manner and to the same extent that it would be assessed if the improvements were constructed in a street; provided that the city shall provide the rights-of-way for construction and maintenance of such mains at its own expense without assessing the cost thereof.

Section 6.66. Inclusion of more than one improvement in single proceeding.

(a) Any proceeding may include one or more local improvements on one or more streets, but all improvements included in one procedure shall be practically uniform in cost and kind. A petition may include improvements on only one side of a street.

(b) The petition may provide for making any one or more local improvements in or on a street or streets and for the assessment of the cost thereof, except the city's portion, wholly against the property abutting one side of such street or streets or otherwise against such abutting property as may be designated in the petition in any of the following cases: (1) In any case where there is park land or unimproved land abutting one side, or a part of one side, of a street; or (2) where the land abutting one side, or a part of one side of a street, is of such a nature or is devoted to such a purpose that a special assessment against it cannot be made, or, if made would probably exceed the value of the land assessed; or (3) where the owners of all the property to be assessed agree thereto.

Section 6.67. The petition; certificate of sufficiency.

(a) Except as otherwise provided in subsection (b), the petition for any local improvements shall designate by a general description the improvements proposed, and shall request that such proportion of the cost of each of such improvements as may be specified in the petition be specially assessed against the property abutting on the street or streets or part thereof in which or on which such improvements are proposed to be made. The petition shall be filed with the city clerk.

(b) (1) In any case where the improvement is to be made on one side of a street only, the petition shall request that the assessment be made only against the property abutting that side of the street whereon the improvement is to be made.

(2) In any case where it is proposed to assess the cost of any local improvement covering the entire width of a street against the land abutting one side of the street only or against any lands less than all of those abutting the improved portion of the street, such petition shall designate the lands to be assessed.

(c) Except as otherwise provided in subsection (d), the petition shall be signed by at least a majority in number of the owners, which majority must own at least a majority of all the lineal feet of frontage, of the lands abutting the street or streets or part of a street or streets proposed to be improved, excluding street intersections.

(d) (1) A petition for the making, of local improvements on one side of a street only need be signed only by a majority in number of the owners of land abutting the side of the street whereon such improvement is to be made, which majority must own at least a majority of all the lineal feet of frontage of the lands abutting such side of the street, excluding street intersections.

(2) Any petition for the making of any improvements covering the entire width of a street and the assessment of the cost thereof against the land abutting one side

of the street only or against any lands less than all of those abutting the improved portion of the street, shall be signed by all of the owners of the lands thus proposed to be assessed.

(e) (1) For the purpose of the petition, all the owners of undivided interests in any land shall be deemed and treated as one person and such land shall be sufficiently signed for when the petition is signed by the owner or owners of a majority in amount of such undivided interest.

(2) For the purpose of this Section the word "owner" shall be considered to include the owners of any life estate, of an estate by entirety, or of the estate of inheritance, and shall not include mortgagees, trustees, of a naked trust, trustees under deeds of trust to secure the payment of money, lien-holders, or persons having inchoate rights of curtesy or dower.

(f) Upon the filing of such petition, the city clerk shall investigate the sufficiency of the petition, and if it is found to be sufficient, he shall certify the same to the council.

Section 6.68. When petition unnecessary.

(a) No petition shall be necessary for the making of any local improvements for which the city bears the entire cost without assessment.

(b) If, in the judgment of the city council, the abutting property to be assessed will be benefited in an amount at least equal to the assessment, no petition for local improvement shall be necessary in the cases set forth in subsections (c) through (g) of this Section.

(c) Street paving improvements – when, in the judgment of the council: (1) Any street or part of a street is unsafe; or (2) the improvement of a street or part of a street not more than three blocks in length is necessary to connect streets already paved; or (3) the improvement of a street or part of a street is necessary to connect a paved street, or portion thereof, within the city with a paved highway beyond the city limits; or (4) the improvement of a street or part of a street is necessary to provide a paved approach to a railroad or street grade separation or any bridge; or (5) any street or part of a street should be widened.

(d) Water main improvements – when, in the judgment of the council, any street or part of a street, or any property within the city, is without a public water supply and can be served, and water service should be provided in the public interest.

(e) Sanitary sewer improvements – when, in the judgment of the council, any street or part of a street, or any property within the city, is without a public sanitary sewer system and can be served, and sanitary sewer service should be provided in the public interest.

(f) Storm sewer improvement – when, in the judgment of the council, any street or part of a street, or any property within the city, is without storm sewer facilities, and can be served, and storm sewers should be provided in the public interest.

(g) Sidewalk improvements – when, in the judgment of the council any street or part of a street is without sidewalks and sidewalks should be provided in the public interest, or that any existing sidewalk is unsafe and should be repaired.

Section 6.69. Notice of hearing.

(a) Upon the presentation of a sufficient petition for local improvements, or when it is proposed to make without petition any improvements authorized to be made without petition, a notice shall be prepared by the city attorney which shall contain substantially the following: (1) That a sufficient petition has been filed for the making of the improvements, or, if it is proposed to make the improvements without petition, a statement of the reasons proposed for the making thereof; (2) a brief description of the proposed improvements; (3) the proportion of the cost of the improvements to be assessed and the terms of payment; (4) a statement of the time and place of a public hearing on the proposed improvements; (5) a statement that all objections to the legality of the making of the proposed improvements shall be made in writing, signed in person or by attorney, and filed with the city clerk at or before the time of the hearing, and that any objections not so made will be waived.

(b) The notice shall be published one time in a newspaper published in the city which is qualified to carry legal notices, or, if there be no such newspaper, the city clerk shall cause it to be posted in three public places in the city, the date of publication or posting to be not less than five days prior to the date fixed for the hearing. A copy of the notice shall be served upon the owners of the lands subject to assessment for such improvements by certified or registered mail. The certificate of the person designated to mail the notices that such notices were mailed shall be conclusive in the absence of fraud. The mailing of notices shall be completed not less than five days prior to the date fixed for the hearing. The word "owners", as used herein, has the same meaning as in Section 6.67.

Section 6.70. Public hearing.

At the time for the public hearing, or at some subsequent time to which such hearing shall be adjourned, the council shall consider objections to the legality of the improvements made in compliance with paragraph (5) of subsection (a) of the preceding section, together with objections to the policy or expedience of the making of the improvements, and the council shall thereafter determine whether it will order the making of the improvements. Any objections to the legality of the making of the improvements not made in writing, signed in person or by attorney, and filed with the city clerk at or before the time or adjourned time of the hearing shall be considered as waived; and if any such objection shall be made and shall not be sustained by the council, the adoption of the resolution ordering the making of the improvements shall be the final adjudication of the issues presented, unless within ten days after the adoption of the resolution proper steps shall be taken in a court of competent jurisdiction to secure relief.

Section 6.71. Resolution ordering improvements; publication.

After the public hearing, if the council determines to make the improvements proposed, it shall adopt a resolution which shall contain:

(1) If the improvements are to be made by petition, a finding by the council as to the sufficiency of the petition, which finding shall be final and conclusive.

(2) If the improvements are to be made without petition, a finding by the council of such facts as are required in order to authorize improvements without petition.

(3) A general description of the improvements to be made and the designation of the street or streets or parts thereof where the work is to be done.

(4) If the improvement directed to be made is the paving of a roadway or part thereof wherein a railroad company has tracks, a direction that said company pave that part of the street occupied by its tracks, the rails of the tracks, and 18 inches in width outside such tracks, with such material and in such manner as the governing body may prescribe, and that unless such paving be completed on or before a day specified in the resolution, the governing body will cause the same to be done. Where such railroad company shall occupy such street or streets under a franchise or contract which otherwise provides, such franchise or contract shall not be affected by this section, except insofar as may be consistent with the provisions of such franchise or contract.

(5) If the improvement directed to be made includes the construction of water mains or sewers, and in order to provide the mains or sewers in the street or streets to be improved it is necessary to extend them beyond the limits of the street or streets, the resolution shall contain a provision for the necessary extension of such mains or sewers and a further provision that the cost of such extension shall eventually be assessed against the lots or parcels of land abutting the street or streets in which such extensions are made but that assessments shall not be made until such time as the council shall thereafter determine by appropriate resolution.

(6) If the improvement directed to be made is the paving of a roadway or part thereof or the construction of sidewalks, the resolution may, but need not, contain a direction that the owner of each lot abutting the part of the street to be improved, connect his lot by means of laterals with water mains, gas or sewer pipes, or any one or more thereof, located in the street adjacent to his premises in accordance with the requirements governing the laying of laterals, and that unless the owners cause laterals to be laid on or before a date specified in the resolution, the date to be not less than thirty days after the date of the resolution, the council will cause the same to be laid.

(7) A designation of the proportion of the cost of the improvements to be assessed against abutting property, and of the number of equal annual installments in which assessments may be paid.

Section 6.72. Details of construction; contracts for construction.

The council shall have power to determine the character and type of construction and of material to be used and to determine any other details of plan or construction necessary to be determined in making any local improvements and to determine whether any work to be done by the city shall be done by contract or by the city. The council shall have power also, unless otherwise limited, to determine the number of water, sewer and gas laterals that shall be laid to any lot on any street to be improved. If the work or any part thereof is to be done by contract, the council may let all of the work in one contract, or it may divide it into several contracts, and may let contracts separately.

Section 6.73. Determination as to cost of improvements.

Upon completion of the improvements, the council shall ascertain the total cost. In addition to other items of cost, there may be included therein the cost of all necessary legal services, the amount of interest paid during construction, the amount of

damages paid or to be paid for injury to property by reason of any change of grade or drainage, including court costs and other expenses incidental to the determination of damages, and the cost of retaining walls, sidewalks or fences built or altered in lieu of cash payment for property damage, including the cost of moving or altering any building. The determination of the council as to the total cost of any improvement shall be conclusive.

Section 6.74. Preliminary assessment.

(a) Having determined the total cost, the council shall make a preliminary assessment. The preliminary assessment shall be advisory only and shall be subject to modification. Except as otherwise provided in subsection (b), the preliminary assessment shall be as follows: (1) Roadway paving. The total cost of any roadway paving improvement, excluding the cost incurred at street intersections, shall be specially assessed against the lots and parcels of land abutting the street containing the roadway paved, according to the frontages thereon, by an equal rate per foot of frontage, except that, where the petition so requested, the cost shall be assessed against the land on one side of the street only or against such lands as were designated in the petition. (2) Water mains and sewers. The cost of not exceeding an eight-inch water or sanitary sewer main and of not exceeding a thirty-inch storm sewer main shall be assessed against the abutting property. Such cost shall be assessed against the lots and parcels of land according to their respective frontages thereon by an equal rate per foot of such frontage. If a water or sanitary sewer main in excess of eight inches in size or a storm sewer in excess of thirty inches in size is laid, the excess cost shall be borne by the city. If the resolution ordered the construction of any pumping station, outfall, septic tank or disposal plant, no part of the cost of the same shall be specially assessed. Nothing contained herein shall be construed to limit the power of the council to contract with any property owner or owners for the construction of any pumping station, outfall, septic tank or disposal plant or for the construction of water mains or storm or sanitary sewers and for the assessment of the cost thereof according to the terms of such contract. The entire cost of each water and sewer lateral shall be specially charged against the particular lot or parcel of land for or in connection with which it was constructed, except that the assessments shall be calculated as if the lateral were laid from the center of the street. The cost of installing storm sewers may, however, be assessed as part of the cost of roadway paving. (3) Sidewalks. The total cost of constructing or reconstructing sidewalks shall be assessed against the lots and parcels of land abutting that side of the street upon which the improvement is made according to their respective frontages thereon by an equal rate per foot of such frontage, the lots within a block being deemed to abut upon a sidewalk although the latter extends beyond the lot to the curb line of an intersecting street. The total cost of constructing portions of driveways within the street area shall be assessed against the lots for which they are constructed. (4) Grass plots. The entire cost of grading or otherwise improving or of planting the grass plots in any street or part thereof shall be assessed against the lots and parcels of land abutting the street or part thereof where or whereon the improvements are made by an equal rate per foot front of such frontage; provided, that this subsection shall be construed to mean that when a grass plot in any street is graded or planted or

otherwise improved, the cost thereof shall be assessed against all of the property abutting the street within the block where such grass plot is located.

(b) If the petition (or the resolution in those cases where the improvement was ordered made without petition) specified that there should be specially assessed against the abutting property a smaller proportion of the cost of any improvement other than that set for in paragraph (2) of subsection (a) of this section, there shall be assessed against abutting property only the proportion of the cost as was specified in the petition or in said resolution. No restriction or denial of access to an abutting street shall affect the levy or collection of any assessment for local improvements.

(c) The cost of paving, water, sewer, and sidewalk improvements upon, in, or to any portion of a right-of-way or any property owned by the State of North Carolina, any agency or subdivision thereof, shall be assessed against the right-of-way or property and shall be paid by the State, its agency or subdivision.

Section 6.75. Corner lot exemptions.

The council shall have authority to determine the amount and applicability of assessment exemptions for corner lots, and to distinguish between different classifications of property uses. The exemptions for water mains and sanitary sewers shall not exceed one hundred and fifty feet for residential uses and one hundred feet for business uses. If the corner formed by two intersecting streets is rounded into a curve or is foreshortened for the purpose of providing sight distance or for any other purpose of construction, the frontage for assessment purposes shall be calculated to the midpoint of the curve or foreshortened corner.

Section 6.76. Preliminary assessment roll.

The council shall cause to be prepared a preliminary assessment roll, on which shall be entered a brief description of each lot or parcel of land assessed, the amount assessed against each lot, the name or names of the owner or owners of each lot, as far as the same can be ascertained; provided, that a map of the improvements on which is shown the frontage and location of each affected lot, together with the amount assessed against each lot and the name or names of the owner or owners thereof, as far as the same can be ascertained, shall be a sufficient assessment roll. If the resolution directed the making of more than one improvement, a single preliminary assessment roll for all the improvements authorized by such resolution shall be sufficient, but the cost of each improvement to each lot affected shall be shown separately. After the preliminary assessment roll has been completed, it shall be filed in the office of the city clerk, and there shall be published in some newspaper published in the city which is qualified to carry legal notices, or if there be no such newspaper, the city clerk shall cause to be posted in three public places in the city, a notice of the completion of the assessment roll, setting forth a description in general terms of the improvements, the amount of each assessment, and stating the time fixed for the meeting of the council for the hearing of objections to the special assessments, such meeting to be not earlier than five days after the publication or from the date of posting of said notice. Any number of assessment rolls may be included in one notice.

Section 6.77. Hearing; revision; confirmation; lien.

At the time appointed for that purpose or at some other time to which it may adjourn, the council shall hear objections to the preliminary assessment roll of all persons interested who may appear and offer proof in relation thereto. Then or thereafter, the council shall either annul or sustain or modify in whole or in part the assessment, either by confirming the preliminary assessment against any or all lots or parcels described thereon, or by cancelling, increasing or reducing the same, according to the special benefits which the council decides each of the lots or parcels has received or will receive on account of the improvements, except that assessments against railroads because of contract or franchise obligations shall be in accordance with such obligations. If any property is omitted from the preliminary roll, the council may place it on the roll and levy the proper assessment. The council may thereupon confirm the assessment roll, and the assessments so confirmed shall be in proportion to the special benefits, except in the case of franchise obligations of railroads. Whenever the governing body shall confirm assessments for local improvements, the city clerk shall enter on the council minutes and on the assessment roll the date, hour, and minute of confirmation, and from the time of confirmation the assessments shall be a lien on the property assessed of the same nature and to the same extent as county and city taxes and shall be superior to all other liens and encumbrances. After the assessment roll is confirmed a copy of the same shall be delivered to the city tax collector.

Section 6.78. Appeal to Superior Court.

If the owner of, or any person interested in, any lot or parcel of land against which an assessment is made is dissatisfied with the amount of the assessment, he may, within ten days after the confirmation of the assessment roll, give written notice to the council that he takes an appeal to the Superior Court of Alamance County, in which case he shall within twenty days after the confirmation of the assessment roll serve on the mayor or city clerk a statement of facts upon which he bases his appeal. The appeal shall be tried as other actions at law. The remedy herein provided for any person dissatisfied with the amount of the assessment against any property of which he is the owner or in which he is interested shall be exclusive.

Section 6.79. Power to correct error in assessment.

If it shall appear after confirmation of any assessment roll that an error has been made, the city clerk shall cause to be published one time in some newspaper published in the city, or if there be no such newspaper, the city clerk shall cause to be posted at three public places in the city, a notice referring to the assessment roll in which the error was made, naming the owner or owners of the lot or parcel of land affected by the error, if the same can be ascertained, and naming the time and place fixed for a hearing by the council for the correction of the error, such meeting not to be earlier than ten days from the publication or from the date of the posting of the notice. At the time fixed in the notice or at some subsequent time to which the council may adjourn, the council, after giving the owner or owners of the property affected and other persons interested therein an opportunity to be heard, may proceed to correct the error, and the assessment then made shall have the same force and effect as if it had originally been properly made. No notice and hearing shall be necessary if the correction does not

increase an assessment against any property not owned by the city, or if all of the property owners affected by the correction waive notice in writing.

Section 6.80. Reassessment.

The council shall have the power, when in its judgment there is any irregularity, omission, error or lack of jurisdiction in any of the proceedings relating thereto, to set aside the whole of the local assessment made by it, and thereupon to make a reassessment. In such case there shall be included, as a part of the cost of the improvements involved, all interest paid or accrued on notes or certificates of indebtedness, or bonds issued by the city to pay the expenses of such improvement. The proceeding shall, as far as practicable, be in all respects as in the case of original assessments, and the reassessment shall have the same force as if it had originally been properly made.

Section 6.81. Publication of notice of confirmation of assessment roll.

Within ten days from the confirmation of the assessment roll, the city clerk shall give notice to all owners of lands to be assessed that the assessment roll has been confirmed, and that assessments may be paid at any time before the expiration of thirty days from the date of such notice, without interest from the date of the confirmation of the assessment roll, but that if such assessment is not paid in full within said time, all installments thereof shall bear interest at the rate of six per centum (6%) per annum from the date of confirmation of the assessment roll. Such notice by the city clerk shall be given by regular mail. The certificate of the clerk that such notices have been mailed shall be conclusive in the absence of fraud.

Section 6.82. Payment of assessments in cash or by installments.

The property owner hereinabove mentioned in this Act shall have the option and privilege of paying for the improvements hereinbefore provided for in cash as provided in the preceding section or in not less than five or more than ten equal annual installments as may have been determined in the original resolution ordering the improvement or improvements. If paid in installments, such installments shall bear interest at the rate of six per cent (6%) per annum from the date of the confirmation of the assessment roll. If any assessment is not paid in cash, the first installment thereof with interest thereon shall become due and payable thirty days after the notice required by the preceding section and one subsequent installment and interest thereon shall be due and payable on the same day of the same month in each successive year until said assessment is paid in full; provided, however, that if the governing body shall so direct such installments shall become due and payable on the same date when property taxes of the city are due and payable. If any installment with interest thereon is not paid when due, it shall be subject to the same penalties as are now prescribed by law for unpaid taxes, in addition to the interest herein provided for. The whole assessment may be paid at any time by the payment of the full amount due with accrued interest.

Section 6.83. Enforcement of payment of assessments.

Upon the failure of any property owner to pay any installment when due and payable, all of the installments remaining unpaid shall immediately become due and payable, and property and rights-of-way may be sold by the city under the same rules, regulations, rights of redemption and savings as are now prescribed by law for the sale

of land for unpaid taxes. Unpaid assessments, interest, and penalties owed by railroad companies and the State of North Carolina, its agencies or subdivisions, may be collected by writs of mandamus issued by the Superior Court of Alamance County. Collection of assessments with interest and penalties may also be made by the city by proceedings to foreclose the lien of assessments as a lien for mortgages is or may be foreclosed under the laws of the State, and it shall be lawful to join in any bill for foreclosure any one or more lots or parcels of land, by whomsoever owned, if assessed for an improvement ordered by the same resolution, after default in the payment of any installment. The payment of all installments due, together with interest and penalties due thereon and costs, before the lot or parcel of land, against which the same is a lien, is sold or said lien is foreclosed shall bar the right of the city to sell land or to foreclose the lien by reason of default.

Section 6.84. Assessment of cost of water main and sewer extensions.

If the resolution ordering the making of any improvement or improvements included a provision for any necessary extension of a water main or sewer or sewers beyond the limit of a street or streets, at such time after the completion of said extension or extensions as, in the judgment of the council, circumstances justify the assessment of the cost thereof, the council shall cause a preliminary assessment to be made and the procedure thereafter to be followed with respect to such assessment and the force and effect thereof shall be as already prescribed for other assessments.

Section 6.85. Apportionment of assessments.

In any case where one or more special assessments have been made, and property has been, or is about to be, subdivided, and it is desirable that the assessments be apportioned among the subdivisions of such property, the council may, upon application by the owner or owners, apportion the assessments among the subdivisions. Thereafter, each subdivision shall be relieved of any part of the original assessment except the part apportioned to the subdivision, and the part of the original assessment apportioned to any subdivision shall be of the same force and effect as the original assessment.

Section 6.86. Change of ownership.

No change of ownership of any property or interest therein after the passage of a resolution ordering the making of a local improvement shall affect subsequent proceedings, and the improvement may be completed and assessment made therefor as if there had been no change in ownership.

Section 6.87. Lands subject to assessment.

No lands in the city, including railroad company lands and rights-of-way and property of the State of North Carolina, its agencies or subdivisions shall be exempt from special assessments except lands belonging to the United States which are exempt under the provisions of Federal Statutes, and the council and the officers, trustees or boards of all incorporated or unincorporated bodies in whom is vested the right to hold and dispose of real property shall have the right by authority duly given to sign the petition for any local improvements.

Section 6.88. Proceedings in rem.

All proceedings for special assessments shall be proceedings in rem, and no mistake or omission as to the name of any owner or person interested in any lot or parcel of land affected thereby shall be regarded as a substantial mistake or omission.

Section 6.89. Grass plot, sidewalk, and driveway maintenance.

It shall be the responsibility of the abutting property owner to maintain any grass plot or driveway between the property line and the curb of a paved street and to maintain in good passable condition any sidewalk immediately fronting his lot.

Section 6.90. Council may hold in abeyance certain water and sewer assessments.

(a) The city council may provide by resolution that assessments levied against abutting lots or parcels of land for water main improvements or sanitary sewer improvements, when in its opinion such improvements may not presently be used by the owner or owners of the abutting lots or parcels of land, may be held in abeyance without the payment of any interest thereon until such time as the council shall determine that any such assessments shall be paid in accordance with the terms set out in the confirming resolution. A part of the assessments levied for the improvements herein set out on a street or streets, or portion thereof, may be held in abeyance as herein provided without holding all of said assessments in abeyance.

(b) All statutes of limitations, and particularly the Statute of Limitations provided for in Chapter 331, Section 1, of Public Laws 1929 (G. S. 160-93) are hereby suspended during the time that any assessment is held in abeyance without the payment of interest, as provided in subsection (a). Such time shall not be a part of the time limited for the commencement of action for the enforcement of the payment of any such assessment, and such action may be brought at any time within ten years from the date of the adoption of a resolution by the council, determining that such assessment shall be paid in accordance with the original resolution confirming it.

(c) Nothing herein shall be construed to revive any right of action which has heretofore been barred by the statute of limitations.

Section 6.91. Abutting property outside city limits.

If any lots or parcels of land abutting any local improvements are located outside the city limits, the council may continue and delay the levy of assessments against such property until the city limits are extended to include such property, or the council may provide that no water or sewer service connections shall be made to such property, pending the annexation thereof, until all assessments thereon are paid. Upon annexation, if not paid prior thereto, the council may levy assessments for such local improvements against such property, and the procedure therefor shall be the same as provided in this Charter. Nothing contained in this section shall be construed to prohibit or restrict the city council and a property owner from entering into an agreement for payment in lieu of assessments.

CHAPTER VII. COURTS AND ADMINISTRATION OF JUSTICE

SUBCHAPTER A. MUNICIPAL RECORDER'S COURT

Section 7.01. Creation.

There is hereby continued a municipal recorder's court for the City of Burlington, established, organized and operated, except as hereinafter set out, in

accordance with the provisions of Article 24 of Chapter 7 of the General Statutes of the State of North Carolina.

Section 7.02. Appointment of judge; term; compensation.

A judge of the municipal recorder's court shall be appointed by the city council. The term of office of such judge shall begin with the date of his appointment by the council, and he shall hold office for a term of two years, or until his successor is duly appointed by the city council and qualified. The salary of the judge of the municipal recorder's court shall be in such amount and payable in such installments as the council may direct, out of the general funds of the city.

Section 7.03. Prosecuting attorney; appointment; term; compensation.

A prosecuting attorney for the municipal recorder's court shall be appointed by the council. The term of office of such prosecuting attorney shall coincide with the term of office of the judge of the municipal recorder's court, and he shall hold office for a term of two years, or until his successor is duly appointed by the city council and qualifies. For his services he shall be paid such sum as the council may direct, which shall be payable at the same time and in the same manner as is provided for the salary of the judge of such court.

Section 7.04. Territorial jurisdiction of municipal recorder's court.

Notwithstanding any other statutory provision to the contrary, the jurisdiction of the municipal recorder's court shall be exercised within that territory wherein Burlington police officers may exercise the powers of peace officers as defined in section 4.191 of this Charter.

SUBCHAPTER B. JUVENILE COURT

Section 7.21. Creation.

There is hereby continued a juvenile court for the City of Burlington, established, organized and operated, in accordance with the provisions of Article 2 of Chapter 110 of the General Statutes of the State of North Carolina.

CHAPTER VIII. MISCELLANEOUS

SUBCHAPTER A. CLAIMS AGAINST THE CITY

Section 8.01. Presentation of claims against the city; suit upon claims. (a) All claims or demands against the City of Burlington arising in tort shall be presented to the city council in writing, signed by the claimant, his attorney or agent, within ninety days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within fifteen days or after the expiration of twelve months from the time said claim is so presented. Unless the claim is so presented within ninety days after the cause of action accrues, and unless suit is brought within twelve months thereafter, any action thereon shall be barred.

(b) No action shall be instituted against the city on account of damages to or compensation for real property used or taken by the city for any public purpose of any kind unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend shall have given notice in writing to the council of the claim, the notice to set forth the date that the alleged use commenced, a description of the property alleged to have been used, and the amount of damage or compensation claimed.

(c) Notwithstanding the provisions of subsection (a) and (b), if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within one year after the termination of the physical or mental incapacity, provided that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the happening or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within one year after termination of the physical or mental incapacity, or within three years after the happening or infliction of the injury complained of, whichever is the longer period.

Section 8.02. Settlement of claims by city manager.

The city manager may settle claims against the city for (1) personal injury or for damages to property when the amount involved does not exceed the sum of one hundred dollars (\$100.00) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred, and (2) the taking of small portions of private property which are needed for the rounding of corners at street intersections, when the amount involved in any such settlement does not exceed the sum of five hundred dollars (\$500.00) and does not exceed the actual loss sustained. Settlement of a claim by the city manager pursuant to this section shall constitute a complete release of the city from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion, or taking complained of. All such releases shall be approved by the city attorney.

SUBCHAPTER B. DEFINITIONS

Section 8.21. Definitions.

As used in this Charter, unless the context indicates to the contrary:

The term "City" means the City of Burlington, Alamance County.

The term "council" means the City Council of the City of Burlington.

The term "manager" means the City Manager of the City of Burlington. The term "clerk" means the City Clerk of the City of Burlington.

The term "G. S." means the General Statutes of North Carolina.

Sec. 2. It is the purpose of this Act to revise and reorganize the Charter of the City of Burlington (Chapter 204 of the N. C. Private Laws of 1903, as amended, and as modified by the adoption of Optional Plan D (G. S. Chapter 160, Article 21, Part 4) in an election held March 27, 1945) and to consolidate into it certain local acts concerning the property, affairs and government of the City of Burlington, including the following: N. C. Session Laws 1959, Chapter 1084 N. C. Session Laws 1957, Chapter 1287 (benefit assessment procedure); N. C. Session Laws 1957, Chapters 973 and 728 (council and mayor terms and salaries); N. C. Session Laws 1955, Chapter 920 (special reserve fund); N. C. Session Laws 1953, Chapter 551 (police travel expenses); N. C. Session Laws 1951, Chapter 1152, as amended (election procedure); N. C. Session Laws 1947, Chapter 950, Section 1 and Chapter 1021, and N. C. Session Laws 1945, Chapter 618, Section 1 (recorder's court establishment and selection of recorder); N. C.

Private Laws 1923, Chapter 151 (annexation procedure); N. C. Private Laws 1921, Chapter 10 and N. C. Private Laws 1909, Chapter 38, Section 2 (eminent domain); and N. C. Private Laws 1911, Chapter 187 (assessments against and regulations of railroads.) Unless expressly indicated to the contrary in Sections 3 or 4 of this Act, it is not the intention to repeal but rather to re-enact with or without amendments, as the case may be, and continue in force without interruption the provisions now in force of said Charter as amended and said local acts, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This Act shall not be deemed to repeal, modify nor in any manner to affect any of the following Acts, or amendments thereto, even though such Acts or amendments are not expressly set forth herein:

(a) Any Acts concerning the property, affairs or government of the Burlington schools or school system;

(b) Any Acts validating, confirming, approving or legalizing official proceedings, actions, contracts, or obligations of any kind, including N. C. Session Laws 1947, Chapter 950, Section 5; N. C. Public-Local Laws 1941, Chapter 49; and N. C. Public-Local Laws 1935, Chapter 69;

(c) Any Acts authorizing conveyance or sale of particular city properties or interests therein, including N. C. Session Laws 1959, Chapter 835; N. C. Session Laws 1957, Chapters 727, 879 and 880; N. C. Session Laws 1955, Chapter 253; N. C. Session Laws 1953, Chapter 296; and N. C. Public-Local Laws 1941, Chapter 239;

(d) The following Acts validating certain proceedings, authorizing certain taxes or borrowing, and for related purposes: N. C. Public-Local Laws 1941, Chapter 70; N. C. Private Laws 1933, Chapter 51; N. C. Private Laws 1927, Chapter 111; and N. C. Private Laws 1913, Chapter 71;

(e) The following Acts authorizing borrowing, fund transfers, or tax estimates: N. C. Private Laws 1929, Chapter 54; N. C. Private Laws 1911, Chapter 12; and N. C. Private Laws 1909, Chapter 38, Section 8;

(f) N. C. Session Laws 1951, Chapter 503 and Chapter 452, Section 2 (repealing prior laws affecting Burlington);

(g) N. C. Public-Local Laws 1939, Chapter 233 (permitting removal of bodies from a certain cemetery);

(h) N. C. Public-Local Laws 1937, Chapter 565 (division of any ABC profits Alamance County);

(i) N. C. Public-Local Laws 1937, Chapter 531 (city-county agreements concerning use of jail);

(j) N. C. Private Laws 1935, Chapter 60 (relief of church assessments);

(k) N. C. Public-Local Laws 1923, Chapter 248, as amended (travelling carnival companies);

(l) N. C. Private Laws 1915, Chapter 236 (special election for city hall and market bonds); and

(m) N. C. Public Laws 1907, Chapter 172, as amended (cemetery lands condemnation, municipalities in Alamance).

Sec. 4. The following Acts and parts of Acts applying to the City of Burlington are repealed, as being obsolete under existing circumstances or unnecessary in light of provisions contained in this Act or other provisions of law:

(a) Section 3, 4, 5, 6, 9, 12, 13, 15, 20, 20a and 22 of N. C. Private Laws of 1903, Chapter 204, as amended, being the present Charter of the City of Burlington (relating to election wards, powers of mayor and aldermen, vacancies, tax rates and procedures, borrowing procedures, and public health administration);

(b) N. C. Session Laws 1951, Chapter 452, Section 1 (recorder's court jurisdiction);

(c) N. C. Public Laws 1933, Chapter 334; N. C. Private Laws 1929, Chapter 64; N. C. Private Laws 1927, Chapter 143; N. C. Public-Local Laws 1927, Chapter 362; and N. C. Private Laws 1917, Chapter 75 – (tax, assessment, borrowing, and fiscal procedures);

(d) N. C. Private Laws 1933, Chapter 100 (meat inspection);

(e) N. C. Private Laws 1931, Chapter 68 and N. C. Public Laws 1931, Chapter 133 (boxing commission, building and electric fees); and

(f) N. C. Private Laws 1929, Chapter 83 and N. C. Private Laws 1921, Chapter 173 (nominating procedure and officers' terms).

Sec. 5. No provision of this Act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this Act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law so repealed.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any Act repealing such law, or

(b) Any provision of this Act that disclaims an intention to repeal or affect enumerated laws.

Sec. 7. (a) All existing Burlington ordinances and resolutions, and all existing rules or regulations of Burlington city departments or agencies, not inconsistent with the provisions of this Act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative or otherwise) pending at the effective date of this Act by or against or before the City of Burlington or any of its departments or agencies shall be abated or otherwise affected by the adoption of this Act.

Sec. 8. Severability. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 9. General repeal. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Sec. 10. This Act shall be in full force and effect from and after July 1, 1961.

In the General Assembly read three times and ratified, this the 28th day of March, 1961.