

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 319
HOUSE BILL 782

AN ACT TO AMEND THE CHARTER OF THE CITY OF RALEIGH AND TO
REPEAL OBSOLETE LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1184 of the Session Laws of North Carolina, 1949, as amended, the Charter of the City of Raleigh, be and the same is hereby further amended as follows:

(a) That Section 3, captioned, "Corporate Limits," and relating to that subject, be and the same is hereby amended to read as follows:

"The corporate boundaries of the City shall be those existing at the time of the ratification and effective date of this Charter and as the same may be altered from time to time in accordance with applicable laws and illustrated by a map on file in the Raleigh Municipal Building. In lieu of maintaining a written metes and bounds description of the corporate limits of the City, the City Council shall approve a map showing the then current corporate boundaries of the City and the electoral districts therein, from and after which time such map shall constitute the official map of the corporate boundaries and electoral districts of the City, as such map may be officially revised from time to time by appropriate action of the City Council. The Planning Director, in consultation with the Chief Engineer, shall draw the original map for City Council approval and shall revise such map as the City Council authorized revisions thereto by appropriate action. From time to time, when additional territory shall have been annexed in accordance with law so as to become part of the municipal territory of the City of Raleigh, and from time to time when the electoral districts of the City shall have been revised and re-established in accordance with law, the official map of the corporate boundaries and electoral districts shall be revised accordingly and, as so revised, shall be presented to the City Council for appropriate action. Such revised map, when duly approved by the City Council, shall thereupon become the official map of the City of Raleigh and shall supersede all prior maps of the corporate boundaries and electoral districts of the City. All such prior official maps shall be preserved as public records and kept on file by the City Clerk, and shall be subject to public inspection during regular office hours. The latest official map, properly identified and bearing the certificate of the City Clerk evidencing its approval by the City Council and stating the date of such action by the City Council, shall be kept on file in the office of the City Clerk and shall be subject to public inspection during the regular office hours of the City Clerk's office. Copies of the official map reproduced by any method of reproduction that gives legible and permanent copies, when certified by the City Clerk,

shall be admissible in evidence in all courts and shall have the same force and effect as the original map from which the copy is made."

(b) That Section 9, captioned, "Number and Election of Members of City Council," and relating to that subject, be and the same is hereby amended to read as follows:

"The City Council shall consist of eight (8) members, including the Mayor of the City.

The mode of election of the City Council and Mayor shall be as follows:

(1) The City Council shall divide the City into five (5) electoral districts and shall cause a map of the districts to be prepared and filed as provided by G.S. 160A-22 and 160A-23; one member of the City Council shall be apportioned to each district so that each member represents the same number of persons as nearly as possible, except for the members apportioned to the City at large; and the qualified voters of each district shall nominate and elect candidates who reside in the district for the seat apportioned to that district.

(2) The qualified voters of the City shall nominate and elect two (2) candidates apportioned to the City at large.

(3) The Mayor of the City of Raleigh shall be elected by all the qualified voters of the City of Raleigh.

The method of election of the City Council of the City of Raleigh shall be a nonpartisan primary and election to be conducted as provided in G.S. 163-294.

Each member of the City Council and the Mayor shall be elected for a term of two years and until his successor is elected and qualified.

Vacancies in the City Council shall be filled by the Council for the remainder of the unexpired term.

Vacancies in the office of Mayor shall be filled by the Council from their own number for the remainder of the unexpired term."

(c) That Section 10 captioned, "Power and Organization of City Council," and relating to that subject be and the same is hereby rewritten to read as follows:

"All legislative powers of the City shall be vested in the City Council. The City Council shall meet following their election as provided in the general law and shall select such officers as may be provided in this Charter or by general law. At that time, the Mayor, Mayor Pro Tempore and other members of the City Council shall take and subscribe the oath of office as provided by law. Any such officer not present at this time may take and subscribe the oath at a later time."

(d) That Section 12, captioned, "Quorum and Conduct of Business," and relating to that subject, be and the same is hereby amended to read as follows:

"Five members of the City Council shall constitute a quorum.

The Mayor shall have the right to vote on all questions before the City Council. When there are equal numbers of votes in the affirmative and in the negative and the Mayor has already voted, he shall not have an additional vote. The Mayor shall have no power to veto.

The Mayor, who shall be the official head of the City, shall, if present, preside at all meetings of the City Council. In the absence of the Mayor, the Mayor Pro Tempore shall preside. In the absence of both, a Chairman Pro Tempore shall be chosen.

The City Clerk and Treasurer shall be ex officio clerk of the City Council and shall keep accurate minutes of its proceedings. In case of his temporary absence or in case of a vacancy in the office, the City Council may elect a temporary clerk who shall be sworn to the faithful performance of his duties and may act as clerk of the City Council until a City Clerk is chosen and qualified. The City Council may elect assistant clerks, who shall be sworn to the faithful performance of their duties and may act as clerks of the City Council in the absence of the City Clerk.

All final votes of the City Council involving the expenditure of fifty dollars (\$50.00) or over shall be by ayes and noes and shall be entered in the minutes.

Five affirmative votes, at least, shall be required for the passage of any motion, order, ordinance, resolution, or vote."

(e) That Section 19, captioned, "Election of Mayor," and relating to that subject, to the term of the Mayor's office, and to filling vacancies in the office of Mayor, be and the same is hereby repealed.

(f) That Section 20, captioned, "Salaries of Mayor and Council," and relating to that subject, be and the same is hereby recaptioned, "Compensation and Allowances Paid to Council and Mayor," and amended to read as follows:

"The compensation paid to the members of the City Council and the Mayor for their services may be fixed, from time to time, by the Council as provided in G.S. 160A-64."

(g) That Section 22, captioned, "Express Powers Enumerated," and subdivision (3) thereof, captioned, "Adopt Ordinances, Etc., for Proper Government; Prescribe Punishment for Violation," and relating to those subjects be and the same is hereby amended to read as follows:

"To make, adopt, and pass such ordinances, resolutions, motions, rules and regulations consistent with the laws of the land and necessary or expedient for the proper government of the city, with full power and authority to provide for the execution of the same by imposition, as punishment for the violation thereof, of fines and imprisonment and by the imposition of penalties and forfeitures as by law provided."

(h)(1) That Section 22, captioned, "Express Powers Enumerated," and relating to that subject, be and the same is hereby amended by adding a new subdivision to be numbered and captioned and to read as follows:

"(69) Combat drug abuse. To provide, through the creation or designation of an administrative department or city committee, commission, or board, for the prevention and treatment of narcotic, barbituric and other types of drug abuse and addiction and to appropriate funds to provide education, medication, medical care, hospitalization and outpatient housing in connection therewith, alone or jointly with Wake County."

(h)(2) That Section 22, captioned, "Express Powers Enumerated," and relating to that subject, be and the same is hereby amended by adding a new subdivision, to be numbered and captioned and to read as follows:

"(70) Engage in socio-economic programs. (a) Subject to the conditions hereinafter set forth, the City of Raleigh, through its governing body, shall have the power to undertake, endorse, administer, operate and maintain and to expend federal tax revenues returned to the City under the designation of general or special revenue sharing funds, or any other title, and consistently with the terms under which such funds are returned, for 'social-economic public improvement programs' and 'crime prevention programs,' including but not being limited to those initiated pursuant to the provisions of the Federal Economic Opportunity Act (42 U.S.C. §§ 2701 et seq.) for the purpose of serving the public interest and well-being of the community and its citizens.

(b) The City Council may appoint such committees or boards as it may deem necessary in carrying out such programs and may authorize the employment of personnel. In undertaking and engaging in such programs, the City Council may enter into contracts with and accept grants from appropriate branches of the State and federal governments.

(c) For the purposes of this section, a 'social, economic public self-improvement program' shall be defined as one devoted to and designed toward improving and promoting the general well-being of certain classes of citizens, without regard to race, religion, sex or national origin, in their human and economic relationship with society including but not limited to programs in areas of employment, youth, elderly, affording equality or opportunity, promotion of communication, understanding and good will, and other areas of social and economic significance related thereto.

For the purposes of this section, a 'crime prevention program' shall mean any type of citizen participation program primarily designed as a deterrent to crime and for the purpose of reducing the level and the magnitude of crime in the City; any such program shall be coordinated with the general efforts of the law enforcement agency of the City of Raleigh to minimize the occurrences of crime in the community.

(d) The powers expressed herein are not intended to nor shall they encroach in any manner upon the powers, duties and responsibilities of Wake County in any health, social, educational or welfare programs being administered by said county."

(i) That Section 29, captioned, "City Council Appointments," and relating to that subject, be and the same is hereby amended to read as follows:

"The City Council shall appoint and employ and may discharge and remove the City Clerk, the City Treasurer, the City Clerk and Treasurer (when duties of City Clerk and City Treasurer are combined and conferred and imposed upon one officer), the City Attorney, and the auditor or such public accountant as may be deemed proper for the auditing of the accounts of the City; and the City Council shall likewise fill vacancies on or make appointments to such boards, commissions, or committees as the governing body of the City of Raleigh is authorized or permitted by law or ordinance to fill or appoint; provided, that the officers named in this section, when appointed by the City Council and qualified, shall hold office and serve at the pleasure of the City Council."

(j) That Sections 34 through 53, dealing with the general subject of municipal elections and appropriately captioned as to applicable law, time of primary, nomination of candidates, primary ballots, canvass of primary returns, date of election and number of Councilors, election ballots, special elections, absentees, registration,

election official compensation, registrar appointment, bribery prohibition, statements of expenses and filling of vacancies be and the same are hereby repealed in their entirety with the exceptions of Section 43, captioned, "Recall of Officials by the People," and Section 48, captioned, "Removal from City Creates Vacancy," which are not repealed.

(k) That a new section be added which shall be numbered 34, captioned, "Conduct of Elections," and which shall read as follows:

"All nominations, primary elections, general elections and special elections in the City shall be held, conducted, supervised and governed by and pursuant to the provisions of Chapter 163, Elections and Election Laws, and Subchapter IX thereof, Municipal Elections, of the General Statutes of North Carolina, with the exception of G.S. 163-303, relating to the nonapplicability of campaign expense regulations in nonpartisan elections and except as otherwise provided by this act.

All nominations and elections in the City shall be subject to the provisions of Chapter 163, Elections and Election Laws, and Subchapter VIII thereof, Criminal Offenses, including, but not being limited to, the sections of the General Statutes numbered G.S. 163-259 through G.S. 163-278."

(l) That Section 43, captioned, "Recall of Officials by the People," be renumbered as Section 35 and that in the first sentence the following words and punctuation be deleted: ", except Judge of the City Court of Raleigh."

(m) That Section 48, captioned, "Removal from City Creates Vacancy," and relating to that subject, be renumbered Section 36, be recaptioned, "Removal of Residence," and be amended to read as follows:

"In the case of removal of residence of any elective officer from the territorial limits of the City, such removal shall, ipso facto, create a vacancy in his office.

In the case of removal of residence of any officer elected to represent a specific electoral district from the electoral district for the representation of which he was elected, such removal shall, ipso facto, create a vacancy in his office."

(n) That a new section be added to be numbered Section 37, to be captioned, "Occurrence of Vacancies," and to read as follows:

"All vacancies in elective offices shall be permanent and shall occur upon the death, removal of residence, other disqualification (such as that associated with a violation of the law), or disability of the elective officeholder. For this purpose, a person shall be deemed to be disabled if, as a result of the certification of a physician, or as a result of an independent investigation by the City Council, it determines that a member is too infirm, either physically or mentally, to discharge his duties adequately and consistently, a member shall also be deemed to be disabled when he fails to attend six consecutive regular meetings of the City Council.

A person appointed to fill a vacancy on the City Council, due to disqualification or disability, shall be clothed with all the authority and powers given under the laws of North Carolina to such office; but the officer so chosen, shall be subject to recall as any other officer."

(o) That Section 51, captioned, "City Council to Fill Vacancy," be amended by deleting the words and punctuation: ", Judge of the City Court,".

(p) That Section 59, captioned, "Same-Duties of the City Attorney," and relating to that subject, be and the same is hereby amended to read as follows:

"It shall be the duty of the City Attorney to prosecute and to defend all suits-at-law or in equity in which the City of Raleigh may become the plaintiff or defendant in any such suit; to render advisory opinions to the Mayor, the City Council, the City Manager, and the heads of the various departments of the City, provided, that such request for advice be made in writing and signed by the person requesting said advice; and it shall be his duty, when required to do so, to attend the meetings of the City Council and to prepare such deeds, contracts, bonds and other legal papers as may be required for the City's business, and to perform such other services of a legal nature as required by the City Council. The City Council may also appoint one or more Associate City Attorneys whose compensation shall be fixed by the Council and who shall serve at the pleasure of the Council; it shall be the duty of the Associate City Attorneys to assist the City Attorney as required by the City Attorney or by the City Council. It shall be the duty of the City Attorney and the Associate City Attorneys to institute and handle all civil actions and proceedings required for the foreclosure of liens against real estate on account of delinquent taxes and/or assessments for special improvements, when requested to take such action by the City Tax Collector or by the City Council. The City Council shall have power and authority to employ additional counsel in special cases when considered expedient by a majority of the City Council."

(q) That Section 82 captioned, "Police Department-Created, Personnel," and relating to that subject, be and the same is hereby amended to read as follows:

"There is hereby created, within the Department of Public Safety, a Police Department (or division), which shall be composed of a Chief of Police, under the Director of Public Safety, and such other officers and employees as shall be deemed necessary by the City Council. The salaries of the Chief of Police and of other officers and employees of the department or division shall be fixed by the City Council. The Chief of Police may or may not be chosen from the officers of the Police Department."

(r) That Section 83, captioned, "Same-Powers and Duties of Chief of Police and Members of Department," be and the same is hereby amended to read as follows:

"The Chief of Police, acting under the Director of Public Safety, shall have the supervision and control of the police force, and it shall be his duty to report to the Director of Public Safety any failure of duty on the part of any member of the police force. It shall be the duty of the Chief of Police to see that all laws and ordinances of the City are enforced and to do all such things that may be required of him by ordinances adopted by the City Council or by the Director of Public Safety. The Chief of Police and each member of the police force shall have the same power and authority as are vested in Sheriffs and Constables for the preservation of the peace of the City; such power and authority to be exercised by them not only in the corporate limits, but within all territory extending one mile in all directions from and beyond the corporate limits of the City (and on any rights-of-way, easements, or property of the City without the corporate limits). They shall execute all process legally directed to them by any court and in the

execution thereof shall have the same powers that Sheriffs and Constables have in the discharge of like duties.

The City Council may make rules and regulations for the government and direction of the police officers of the City or may delegate such power to the Director of Public Safety. The City Council may require the entire police force to wear badges, and to be so armed and uniformed as to be readily recognized by the public as peace officers; provided, that the Director of Public Safety, or the Chief of Police, when either deems it necessary, may authorize any such officer to be on duty in plain clothes. The police of the city shall have power to do whatever may be necessary to preserve the good order and peace of the City and secure the inhabitants from personal violence and their property from loss or injuries.

When funds shall have been appropriated for the purpose, and when considered expedient and in the public interest, the Chief of Police, subject to the approval of the City Manager, may employ temporarily, for a period of time not to exceed twelve months, persons to obtain information regarding criminal activity within the City; provided, however, that there shall not be any re-employment of any such person at any time within a period of thirty days immediately following the termination of a previous term of such temporary employment; provided, further, that such persons so employed may, but shall not be required to, take and subscribe the same oath required of regular police officers of the City and if so sworn, shall have all the powers, authority, and duties of regular police officers of the City; provided further that such persons so employed shall not be subject to the Civil Service Act applicable to policemen and firemen of the City. Such persons so employed shall be subject to the orders and direction of the Director of Public Safety, Chief of Police and the City Manager.

The Director of Public Safety, Chief of Police, and each member of the police force, before entering upon the discharge of the duties of his office, shall be required to take and subscribe before the Mayor, or some other officers authorized to administer oaths in such cases, the oath prescribed for public officers, and an oath that he will faithfully and impartially discharge the duties of his office according to law, which said oath shall be filed with the City Clerk and entered into the book with the oaths of the members of the City Council and other officers of the City."

(s) That Section 98, captioned, "Zoning and Planning - Department of Planning," and relating to that subject and subsection (e) thereof, be and the same is hereby amended to read as follows:

"The Director of Planning shall consult with and advise and otherwise cooperate with the members of the City Planning Commission."

(t) That Section 99, captioned, "Same - Planning Commission," and relating to that subject, and subsection (a) thereof, be and the same is hereby amended to read as follows:

"There is hereby created the City Planning Commission of the City of Raleigh, which shall consist of five (5) members who shall be appointed by the City Council from among the citizens of the City (none of whom shall hold any other public office or position with the City), whose terms shall be four years. Any vacancy during the unexpired term of any member shall be filled by the City Council for the remainder of

the term. The member shall serve without compensation, except that the City Council may prescribe and authorize the payment of a per diem allowance for attendance upon meetings not to exceed ten dollars (\$10.00) per member, per meeting."

(u) That Section 104, captioned, "Condemnation Powers and Procedures," and relating to that subject be and the same is hereby amended to read as follows:

"In addition to the foregoing powers and as alternative powers and methods of procedure for the exercise of the power of eminent domain, the City of Raleigh is hereby authorized to use, in the exercise of the power of eminent domain for any lawful purpose, the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided, that whenever therein the words 'Commission' or 'Highway Commission' or 'State Highway Commission' appear, they shall be deemed to include the 'City of Raleigh,' and whenever therein the words 'Director', 'Chairman', or 'Director of Highways', or 'Director of the Highway Commission' or 'Chairman of the Highway Commission' appear they shall be deemed to include the 'City Manager'.

The exercise of eminent domain power under this section shall not apply to property of public utilities.

Sec. 2. The following laws relating to the Raleigh City Court be and the same are hereby repealed:

Chapter 706, Public-Local Laws of 1913; Chapter 353, Public-Local Laws of 1915; Chapter 1093, Session Laws of 1949; Chapter 470, Session Laws of 1951; Chapter 165, Session Laws of 1955; Chapter 340, Session Laws of 1957; Chapter 700, Session Laws of 1957; Chapter 837, Session Laws of 1959; Chapter 629, Session Laws of 1961; Chapter 366, Session Laws of 1963; and Chapter 600, Session Laws of 1965.

Sec. 3. No portion of this act shall be intended to affect the term of office of any person holding office in the City of Raleigh on the effective date hereof until his successor is elected and qualified in accordance with the provisions of this act.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1973.