

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 495
HOUSE BILL 741

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF
WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Wilmington is hereby revised, consolidated, and rewritten as follows:

"THE CHARTER OF THE CITY OF WILMINGTON.

"ARTICLE 1.

"Incorporation and Corporate Powers.

"Sec. 1.1. Incorporation and general powers. The inhabitants of the City of Wilmington shall be, and continue as they have been, a municipal body politic and corporate, and the corporation shall bear the name and style of City of Wilmington, and have perpetual succession, and under such name and style shall have all franchises, powers, property and rights of property which now belong to the corporation, under any other name or names heretofore, and be subject to all its present liabilities; and by this name may acquire and hold all such estates as may be devised, bequeathed, sold, or in any manner conveyed to it, and from time to time, as it shall be deemed advisable by the proper authorities of the corporation, invest, sell, or dispose of the same; and under this name shall have power to contract and to be contracted with, to sue and be sued, and shall have all the rights, powers, privileges, franchises, and immunities necessary or belonging to or usually appertaining to municipal corporations.

"Sec. 1.2. Corporate seal. The corporate seal of the City of Wilmington heretofore used by the city shall be and remain the corporate seal of the City of Wilmington under this charter unless changed by the city council by ordinance. Such seal shall be lodged in the custody and keeping of the city clerk of the City of Wilmington for preservation and safekeeping and shall be affixed by him to all proper documents.

"Sec. 1.3. Exercise of powers. 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, or, if this charter makes no provision, as provided by ordinance or resolution of the city council, and as provided by the general laws of North Carolina pertaining to municipal corporations, their officers, agencies or employees.

"Sec. 1.4. Enumeration of certain specific powers. The city council, among the powers granted, shall have power and authority:

(1) Payment of debts. To provide for the payment of any existing indebtedness and of any lawful obligation that may from time to time be made by the city and to appropriate funds for that purpose.

(2) Establishment of parks. To establish and regulate public parks and grounds for its citizens.

(3) Establishment, maintenance of streets. To establish, construct, open, close, grade and keep in repair streets, sidewalks, public alleys, bridges, culverts, drains and conduits in the city, and regulate the construction and use of the same.

(4) Obstructions and encroachments on streets. To abate any obstructions and encroachments on streets, sidewalks, public alleys, bridges, culverts, drains and conduits in the city and to punish those causing or responsible for such obstructions or encroachments.

(5) Excavations in streets. To prevent excavations on any street, sidewalk, public alley, park or public ground, unless by permission of the city council, to prescribe and exact fees for such privileges and to require satisfactory bonds or deposits in cash or securities as guarantee for the proper restoration of such street, sidewalk, park, public alley or public ground.

(6) Lighting of streets, generally. To provide for the lighting of the streets, public grounds, parks and public buildings.

(7) Lighting of streets used by railroads. To require all railroads to light the street over or across which their trains are operated where such lighting is deemed necessary by reason of the operation of such trains and to prescribe the kind of light to use for such lighting.

(8) Speed of trains. To regulate the speed of all railroad trains and locomotives within the city, subject to the provisions of Section 62-60 of the General Statutes of the State.

(9) Assessments against railroads for street improvements. To levy special tax assessments upon railroads for street improvements in the same manner as against abutting property owners as provided for in this charter.

(10) Gates at railroad crossings. To require railroad companies to maintain gates or watchmen at street crossings when deemed necessary.

(11) Railroad tracks, turnouts, switches. To regulate and control the laying and construction of railroad tracks, turnouts and switches, and to regulate, change or alter the grades of same and to require that railroad tracks, turnouts and switches be constructed and so laid as to interfere as little as possible with the ordinary travel and use of streets, and to require railroad companies of all kinds to construct, raise, lower, alter, widen or enlarge, at their own expense, such tracks, bridges, turnouts, culverts, crossings and other things as the city council may deem necessary.

(12) Power engines and boilers. To control and regulate the erection and use of steam and other power engines and boilers in the city, and to adopt such rules and regulations in relation thereto as may be deemed best for the public safety and comfort.

(13) Transportation of explosives and flammables. To regulate the transportation, storage and use of gasoline, benzine, dynamite and other substances which are explosive or highly flammable and dangerous to the public safety.

(14) Use of bicycles and motor vehicles. To regulate the use of bicycles and motor vehicles.

(15) Permits for bicycles. To issue permits for the use of bicycles and to require the same to be numbered.

(16) Inspection of dairies, milk and foodstuffs. To provide for inspection of all dairies doing business within the city, and to regulate and maintain a standard for milk sold in the city, to provide for and regulate the inspection of all foodstuffs offered for sale in the City of Wilmington, and to impose license fees on all persons engaged in any such businesses.

(17) Slaughterhouses and meat markets. To regulate, license or prohibit the business of slaughtering animals and to regulate the selling of fresh meats in the city limits, to revoke such license for misconduct in business and to regulate and prescribe plans and specifications and conduct of slaughterhouses and abattoirs where animals are slaughtered and where fresh meats are kept or stored for use or sale within the city.

(18) Cleaning dairies, groceries, restaurants. To require any owner or occupant of a dairy, grocery, meat, fish or other market place, any restaurant or eating place or stable, to cleanse or operate same in such manner as may be necessary for the health, comfort and convenience of the inhabitants.

(19) Markets and market places. To establish markets and market places and provide for the government and regulation thereof.

(20) Horses, cattle, dogs running at large. To regulate, restrain, and prohibit the running at large of horses, cattle, sheep, swine, goats, dogs and other animals in the city, to authorize the impounding and sale of the same for the cost of proceedings and the penalty incurred, to order the destruction of such thereof as cannot be sold or are not reclaimed and to impose penalties on the owners or keepers thereof for violating any ordinance. At all such sales the purchaser of any animal shall be deemed to acquire a good and valid title thereto if the provisions of the ordinance have been complied with.

(21) Sunday observance; order near churches. To provide for the due observance of Sunday and the maintenance of order in the vicinity of churches, schools and hospitals.

(22) Fire stations and equipment. To establish and own stations and equipment for extinguishing fires and to provide everything necessary for the efficient operation of same.

(23) Fire prevention and extinguishment. To establish such regulations for the prevention and extinguishment of fires as it may deem expedient.

(24) Fire limits and buildings therein. To establish fire limits and to regulate or prohibit the erection, building, placing, moving or repairing of wooden buildings within such fire limits.

(25) Theaters, tenement houses. To regulate the size, arrangement and construction of theaters, tenement houses, audience rooms, public halls and all buildings used for the gathering of a number of people, hereafter to be built.

(26) Dilapidated buildings. To declare as nuisances all dilapidated buildings which may be deemed dangerous by the city council and to acquire the same to be removed in such manner as the city council may direct.

(27) Building inspection. To provide for the inspection of all buildings in the city, and to prescribe and enforce proper regulations in regard thereto.

(28) Poles and wires. To regulate and locate the erection of all poles in the city and cause the same to be changed or removed and all wires to be placed underground, whether telegraph, telephone, light, power or otherwise.

(29) Fire escapes. To require the construction of suitable fire escapes on or in hotels, boardinghouses, factories, schoolhouses and other buildings, whether now built or hereafter built.

(30) Construction of chimneys, boilers, furnaces. To prevent dangerous construction of chimneys, fireplaces, hearths, stoves, stovepipes, flues, boilers, furnaces and other heating apparatus, and cause the same to be removed and made safe.

(31) Dense smoke. To prevent nuisances on account of dense smoke from boilers or furnaces.

(32) Right of entry of city officers; correction of defects. To authorize one or more officers, agents, or employees of the city to enter in and upon all buildings and premises within the city to inspect and discover whether such buildings and premises are dangerous on account of fire hazard or otherwise, or in an unclean state, and to cause the defects to be remedied and filth and trash to be removed.

(33) Nuisances generally. To define what shall be nuisances in the city, to abate them by summary proceedings and to punish the authors by penalties, fines or imprisonment.

(34) Incinerators. To establish one or more incinerators and to provide for the removal of all filth, carcasses of dead animals and other unhealthy substances for incineration.

(35) Condition of premises. To require the owners and occupants of all premises to keep such premises in a clean condition.

(36) Burial of dead. To regulate the burying of the dead in the city.

(37) Sewerage and drainage systems. To establish, enlarge or extend systems of sewerage and drainage and to require persons owning property within a reasonable distance to connect therewith.

(38) Sewage disposal plants. To establish works or plants for sewage disposal and to extend or build the same beyond the corporate limits of the city when deemed necessary.

(39) Private drains, sinks and privies. To require the owners of private drains, sinks, and privies to fill up, cleanse, drain, relay, repair, remove or fix and improve the same; provided, that if necessary, the city can have such work done, and the costs of the same shall be a lien on the property and taxed up against it and collected in such manner as the city council may determine.

(40) Waterworks system. To own, maintain and operate a system of waterworks for the furnishing of a supply of water to the city and its inhabitants.

(41) Transportation facilities. To supervise all transportation facilities in the city.

(42) Fares and taxicabs. To regulate fares for transportation by all taxicabs and other vehicles for hire in the streets of the city.

(43) Protection of taxicab drivers, hotel keepers, against fraud. To protect drivers of taxicabs and other vehicles for hire, chauffeurs, keepers of restaurants, boardinghouses, motels, tourist courts, hotels or lodginghouses or places from being cheated, defrauded or deprived of just compensation for services rendered or accommodation furnished.

(44) Theatricals, circuses, carnivals. To provide for regulating and restraining theatricals, circuses, carnivals, and other public performances within the city and levy license taxes thereon and to enforce such provisions.

(45) Docks, wharves and warehouses. To regulate the use of docks, wharves and warehouses and to regulate and fix the charges for the use thereof.

(46) Leases on streets bordering river. To make temporary leases of any portion of the streets of the city bordering on the river not necessary to the public use; provided, however, that: (1) no such lease shall be for a longer term than two years; (2) the city council may terminate such lease upon 30 days' notice to the lessee, notwithstanding the term shall not have expired.

(47) Penalties for breach of ordinance enacted under charter. To prescribe penalties and forfeitures for the breach of any ordinance enforcing the powers granted in this charter and to provide for the recovery of such fines and forfeitures.

(48) Other powers and functions. To exercise any other powers and functions granted to municipalities by the general laws of the State, not inconsistent with any specific provisions of this charter.

"Sec. 1.5. Levy on city property prohibited. No levy shall be made on any property belonging to the city nor shall any levy be made upon the property of the individual for any debt due by the city, but all such debts shall be paid only by taxation upon subjects properly taxable by the city.

"Sec. 1.6. Place of payment of bonds and coupons. All municipal bonds and coupons shall be payable at such place or places as may be designated in the ordinance authorizing the issuance of such bonds.

"Sec. 1.7. Bond may be required of certain persons contracting with city. The city council may require every person contracting to furnish materials or supplies or do work for the City of Wilmington to give bond with good surety in some licensed and approved surety company and of sufficient amount to protect the city. Where the security in any such bond shall become insufficient or insolvent, the city council may require additional security. If the amount of such bond shall, at any time during the performance of such contract, be deemed by the city to be insufficient to protect the city, the city may require additional bond.

"Sec. 1.8. Naming all streets, parks, and public places. The naming of all streets, parks and public places shall be subject to the approval of the city council.

"ARTICLE II.

"Corporate Limits.

"Sec. 2.1. Corporate limits described. The corporate limits of the City of Wilmington shall be as described and set forth in Chapter 454 of the Session Laws of 1977, ratified on May 30, 1977.

"ARTICLE III.

"Mayor and City Council.

"Sec. 3.1. Composition of city council. The city council shall consist of six members who shall be elected from the city at large in the manner provided in Article IV.

"Sec. 3.2. Council; terms of office, qualifications; vacancies. (a) Members of the city council shall serve for terms of four years, beginning the day and hour of the organizational meeting held after their election; provided, that members shall serve until their successors are elected and qualified. The terms of councilmen shall be staggered terms of four years as provided in Article IV.

(b) No person shall be eligible to be elected to the city council or serve thereon unless he is 21 years of age and a resident of the city.

(c) If any elected council member shall refuse to be qualified, or if there is a vacancy of a councilman after election and qualification or if any councilman be unable to discharge the duties of this office, the remaining members of the council shall elect some person to serve the unexpired term or during his disability, as the case may be. Councilmen so elected shall have all authority and powers granted by this charter to regularly elected councilmen.

"Sec. 3.3. Election of mayor; terms of office; vacancy. The mayor shall be elected by the qualified voters of the city and his term shall be for two years. In case of vacancy in the office of the mayor, the remaining members shall elect his successor for the unexpired term.

"Sec. 3.4. Duties of mayor. The mayor shall:

(a) Preside at all meetings of the city council, but shall have the right to vote only when there are equal numbers of votes in the affirmative and in the negative;

(b) Be the official head of the city for the service of process, for ceremonial purposes, and shall be so recognized by the Governor of the State in connection with the military law.

(c) Have power to administer oaths and take affidavits.

(d) Sign all written contracts entered into by the council on behalf of the city and all other contracts and instruments executed by the city which by law requires the mayor's signature. All other contracts shall be made and signed by the mayor or city manager.

"Sec. 3.5. Mayor pro tempore; duties; term. At its organizational meeting the council shall elect one of its members mayor pro tempore, to preside in the absence of the mayor and to act as mayor in the absence or during the disability of the mayor. In the event of a vacancy in the office of the mayor, the mayor pro tempore shall act as mayor until a mayor is elected by the council pursuant to Section 3.3 of this Article. The term of office of the mayor pro tempore shall be two years.

"Sec. 3.6. Organization of city council; oaths of office. The council shall meet and organize at the first regular meeting in December in each election year of the mayor and councilmen of the City of Wilmington. Before entering upon their offices, councilmen shall severally take oath before the mayor or city clerk to perform faithfully the duties of their respective offices. Any elected councilman not present at the organizational meeting may take oath at any time thereafter.

"Sec. 3.7. Rules of council; journal of proceedings. The city council shall determine its own rules and order of business and shall keep a journal of its proceedings.

"Sec. 3.8. Access to council minutes. Any citizen of the city shall have access to the minutes and records of the city council at all reasonable times.

"Sec. 3.9. Other public employment prohibited; eligibility for office created by council. No member of the city council shall hold any other office or employment during the term for which he or she is elected, compensation for which is paid out of the city funds, nor be entitled or appointed to any office created by or the compensation of which was increased or fixed by the city council while he or she was a member thereof; provided, the council may select one of its members to act as city treasurer. Any person violating this section shall be guilty of a misdemeanor.

"Sec. 3.10. Meetings of council. (a) The city council shall fix suitable times for its regular meetings, which shall be as often as once monthly. The mayor, or any two council members 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 and consent thereto. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

(b) All meetings of the city council shall be public meetings except when executive sessions are authorized. The city council shall vote on questions at a public meeting only.

"Sec. 3.11. Quorum; votes. (a) A majority of the members elected to the council shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members.

(b) The affirmative vote of a majority of the council members shall be necessary to adopt any ordinance or to authorize the expenditure of money. All other matters voted upon shall be decided by majority vote of the council members present.

(c) No member of the council shall be excused from voting on any matter not involving his own official conduct or his financial interest.

"Sec. 3.12. Committees. Special committees of the city council shall be appointed as provided by the city council or State law.

"Sec. 3.13. Exercise of city powers. (a) The city council shall direct the exercise of all of the powers of the city, except as otherwise provided by this charter.

(b) In addition to the powers herein conferred, and to other powers conferred upon it by general 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 for the preservation and promotion of the health, safety, comfort, convenience, good order, better government, and general welfare of the city and its inhabitants.

"Sec. 3.14. Investigations by council. The city council, or any committee thereof duly authorized by the city council so to do, may investigate the transactions of any office or department of the city government and the official acts and conduct of any city official and by similar investigations may secure information upon any matter within its

province. In conducting any such investigations, the city council, or any committee thereof may compel the attendance of witnesses and administer oaths and compel the production of books, papers and other evidence and, for that purpose, may issue subpoenas or attachments, to be signed by the presiding officer of the city council or chairman of such committee, as the case may be, which shall be served and executed by an officer authorized by law to serve subpoenas and other process. If any witness shall refuse to testify to any facts within his knowledge, or to produce any papers or books in his possession or under his control, relating to the matter under inquiry before the city council, or any such committee, the city council shall have the power to commit the witness to prison for contempt. No witness shall be excused from testifying touching his knowledge of the matter under investigation in any such inquiry, but such testimony shall not be used against him in any criminal prosecution, except for perjury. Willful false swearing in any such investigation and examination shall be perjury, and punishable as such.

"Sec. 3.15. Control of finances and property. The city council shall have control of all the finances and all the property, real and personal, belonging to the city.

"ARTICLE IV.

"Elections.

"Sec. 4.1. The regular municipal election for elected officials shall be nonpartisan and the election and run-off election method set out in G.S. 163-293 shall be used. The regular municipal election shall be held on the fourth Tuesday before the Tuesday after the first Monday in November, and the run-off election, if required, shall be held on Tuesday after the first Monday in November beginning in 1977.

Present members of the city council shall continue in office until the expiration of their respective terms.

"Sec. 4.2. Election of council members. At the regular municipal election to be held in 1977, three council members shall be elected for terms of four years, and in 1979 three council members shall be elected for terms of four years. Thereafter, as the terms of the members expire, their successors shall be elected for terms of four years.

"Sec. 4.3. Election of mayor. In 1977, and every two years thereafter, the mayor shall be elected by the qualified voters of the city for a term of two years.

"Sec. 4.4. County board of elections to hold municipal elections. All elections in the City of Wilmington shall be held and conducted by the county board of elections in accordance with the provisions of this charter and the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes. The city shall reimburse the county board of elections for the expense incurred in holding and conducting the municipal elections.

"Sec. 4.5. Any qualified voter of the city, except as disqualified by the Constitution of North Carolina, shall be eligible for election by the people to office, and to vote in municipal elections.

"ARTICLE V.

"Initiative and Referendum.

"Sec. 5.1. Initiative ordinances generally. Any proposed ordinance may be submitted to the council by petition signed by electors of the city equal in number to the

percentages hereinafter required. The signatures, verification, inspection, certification, amendment and submission of such petition shall be the same as provided for by general law. If the petition accompanying the proposed ordinance be signed by electors equal in number to 25 per centum (25%) of the votes cast at the last preceding regular municipal election and contains a request that such ordinance be submitted to a vote of the people if not passed by the council, such council shall either:

(a) Pass such ordinance without alteration within 20 days after attachment of the clerk and treasurer's certificate to the accompanying petition, or,

(b) Forthwith, after the clerk and treasurer shall attach to the petition accompanying such ordinance his certificate of sufficiency, the council shall call a special election, unless a general municipal election is fixed within six months thereafter, and at such special or general election, if one is so fixed, such ordinance shall be submitted without alteration to the vote of the electors of the city.

The ballots used when voting upon such ordinance shall contain these words: 'For the ordinance' (Stating the nature of the proposed ordinance), and 'Against the ordinance' (Stating the nature of the proposed ordinance). If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city; and any ordinance proposed by petition or which shall be adopted by a vote of the people cannot be repealed or amended except by a vote of the people.

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section; but there shall not be more than one special election in any period of six months for such purpose.

The council may submit a proposition for the repeal of any ordinance or for amendments thereto, to be voted upon at any succeeding general or special election; and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall thereby be repealed or amended accordingly. Whenever any ordinance or proposition is required by this act to be submitted to the voters of the city at any election, the city clerk and treasurer shall cause such ordinance or proposition to be published once in each of the newspapers published daily in the City of Wilmington; such publication to be not more than 20 nor less than five days before the submission of such proposition or ordinance to be voted upon.

"Sec. 5.2. Form and contents of referendum petition. The petitions provided for in the two preceding sections shall be signed by none but legal voters of the city. Each petition shall contain, in addition to the names of the petitioners, the street and house number in which the petitioner resides, his age and length of residence in the city. It shall also be accompanied by the affidavit of one or more legal voters of the city, stating that the signers thereof were, at the time of the signing, legal voters of the city, and stating the number of signers at the time the affidavit was made.

"ARTICLE VI.

"Unlawful Election Practices.

"Sec. 6.1. Unlawful act generally. Any person offering to give a bribe, either in money or other consideration, to any elector for the purpose of influencing his vote at any election provided for in this charter, or any elector entitled to vote at any such

election receiving or accepting any such bribe or other consideration; or any person making false answer to the provisions of this charter relative to his qualifications to vote at any election; or any person making false answer to the provisions of this charter relative to his qualifications to vote at any election; or any person willfully voting or offering to vote at such election who has not been a resident of this State for 30 days any person willfully voting or offering to vote at such election who has not been a resident of this State for 30 days or of the precinct of which he offers to vote for 30 days, or who is not 18 years of age, or who is not a citizen of the United States, or knowingly himself not to be a qualified voter of such precinct where he offers to vote; or any person knowingly procuring, aiding or abetting any violation hereof, shall be guilty of a misdemeanor, and upon conviction may be fined not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00), and be imprisoned not less than 10 days nor more than 90 days.

"Sec. 6.2. Promising employment or benefits. It shall be unlawful for any candidate for office or any officer of the city, directly or indirectly, to give or promise any person or persons in the office positions, employment, benefit, or anything of value, for the purpose of influencing or obtaining the political support, aid or vote of any person or persons; any such person committing a breach hereof shall be guilty of a misdemeanor, and upon conviction may be fined not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00), or be imprisoned in the county jail not less than 10 days nor more than 90 days, or both.

"Sec. 6.3. City officers and employees. Every employee of the city has the civic responsibility to support good government in an appropriate manner in accordance with the policies of the city. This policy shall not be construed to prevent any employee from becoming or continuing to be a member of a political party or attending political meetings or from enjoying complete freedom from all interference in casting a vote.

In city, county, State and federal elections, no employee shall:

1. Engage in political activity while on duty.
2. Use his or her official authority or influence to interfere with or affect the result of an election or nomination for office;
3. Be required to contribute funds or support for political campaigns as a condition of employment, promotion, or tenure of office;
4. Solicit, or act as custodian of funds for political campaigns;
5. Coerce, compel, or solicit contributions for political campaigns from other city employees;
6. Use city-owned or leased supplies, equipment, or facilities to display political slogans, posters, or stickers or for any other political purpose.

In city elections, no employee shall:

1. Invite candidates to solicit votes in city offices or facilities;
2. Actively participate in the management of a candidate's campaign.
3. Endorse candidates, individually or in concert with other city employees, in the public media, broadcast and print.

Employees seeking office in any partisan or nonpartisan election shall be governed by the personnel ordinance of the city.

"ARTICLE VII.

"Ordinances and Resolutions.

"Sec. 7.1. Form; limitation as to subject matter. Each proposed ordinance or resolution shall be introduced in written or printed form, and shall not contain more than one subject, which shall be clearly stated in the title; but general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated, general and special improvement resolutions may contain the various improvements to be made and ordinances adopting a revision and modification of ordinances may contain the various subjects contained in any or all of the ordinances of the city.

"Sec. 7.2. Reading. No ordinance, unless it be declared an emergency measure in the opinion of the city attorney, shall be passed until it has been read on two separate days, or the requirement of reading on two separate days has been dispensed with by a unanimous vote of the members present; provided, that the requirement of reading on two separate days shall never be dispensed with on ordinances making a grant, renewal or extension of a franchise. The first reading of all ordinances shall be by title or, upon the request of any council member in full; except, that the reading of the title of an ordinance adopting a technical code as authorized by Section 26.5 of this charter or an ordinance adopting a revision and codification of the ordinance of the city shall be sufficient.

"Sec. 7.3. Recordation, authentication and attestation. Every ordinance or resolution, except an ordinance adopting a revision and codification of the ordinances of the city, upon its final passage, shall be recorded in a book kept for that purpose, and shall be authenticated by the signature of the mayor and attested by the city clerk.

"Sec. 7.4. Revision and amendment. No ordinance or resolution or section or subsection thereof shall be revised or amended unless the new ordinance or resolution contains the entire ordinance or resolution or section or subsection revised or amended, and the original ordinance, resolution, section or subsection so amended shall be repealed.

"ARTICLE VIII.

"City Manager.

"Sec. 8.1. Appointment, qualifications, term and compensation. The city council shall appoint the city manager to hold office during the pleasure of the council. The city manager shall be appointed with regard to merit only, and he need not be a resident of the city when appointed. The city manager shall receive for his services such compensation as the city council shall determine.

"Sec. 8.2. Powers and duties of city manager generally. The city manager shall (1) be the administrative head of the city government; (2) see that within the jurisdiction of the city the laws of the State and the ordinances, resolutions, rules and regulations of the council are faithfully executed and enforced; (3) attend all meetings of the council, and recommend for adoption such measures as he may deem expedient; (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.

"Sec. 8.3. Certain specific powers and duties of city manager enumerated. (a) The city manager shall devote his time to the affairs of the city and shall not actively engage in any other business that will conflict with his primary duties.

(b) The city manager shall establish and organize such departments for the administration of the affairs of the city as he may deem proper or necessary for the efficient and economical administration, subject to the approval of the city council.

(c) The city manager shall see that all terms and conditions imposed in favor of the city or its inhabitants in the public utility franchises are faithfully kept and performed and, upon knowledge of any violation thereof, shall call the same to the attention of the city council and shall take such steps as are necessary to enforce the same.

(d) The city manager, or such person as he shall designate, shall superintend the construction, operation and maintenance of all public works, including streets, sidewalks, sewers, waterworks, public grounds, and parks.

(e) The city manager may revoke or suspend licenses or permits pending action by the city council.

(f) The city manager or his designee shall supervise performance of all contracts of the city.

(g) The city manager shall examine personally, or by duly designated deputy, all records, books and accounts of each department of the city government.

(h) The city manager shall require that reports shall be made to him or his designee by each department of the city government, showing the receipt of all moneys by such departments and the disposition thereof, at least once a month or more often if he desires.

(i) The city manager, or the purchasing agent designated by him, shall purchase all supplies and materials used by the city, subject to the provisions of Section 143-129 of the General Statutes of the State, and subject to the provisions of Section 143-131 of the General Statutes of the State.

(j) The city manager shall keep the city council fully advised as to the financial condition and needs of the city.

(k) The city manager shall, in addition to the powers and duties set forth in this charter and the State law, exercise such other powers and perform such other duties as may be authorized by the city council, not inconsistent with this charter or with the State law.

"Sec. 8.4. Absence or disability of city manager. In the event the city manager shall be sick, absent from the city or otherwise unable to perform the duties of his office, the council may designate any other city employee, or any other person, as acting city manager, and the person so designated shall have all the power and authority of the manager while serving in such capacity. Any employee designated as acting city manager shall receive such additional compensation as the council may determine. Neither the mayor nor any council member shall serve as acting city manager.

"ARTICLE IX.

"Administrative Offices and Personnel.

"Sec. 9.1. Appointment and removal of department heads and employees; salaries.

(a) The city manager, except as otherwise provided in this charter, shall appoint and may suspend and remove all city employees and heads of departments, and, in his discretion, may employ consultants of any kind as authorized by city council in the budget. The city manager shall report to the council every appointment and removal of a department head at the next regular council meeting following such appointment or removal.

(b) The council will approve a general pay plan for employees to be administered by the manager. Council retains the authority to demote or terminate positions because of a lack of work or conditions beyond the control of the city. And furthermore, nothing in this Article shall be so construed as to deprive the city council of its control over the finances of the city.

(c) City employees and department heads shall perform such duties as may be required by them by the city manager under general regulations of the council.

(d) Neither the council nor any of its members shall take any part in the appointment or removal of department heads and employees in the administrative service of the city, except as provided by this charter. Except for the purpose of inquiry, or for consultation with the city attorney, the council and its members shall deal with the administrative service solely through the city manager, and neither the council nor any of its members shall give any specific orders to any subordinates of the city manager, either publicly or privately.

"Sec. 9.2. City clerk. The city clerk shall be appointed by the city council, and shall have the following duties: (1) to act as clerk to the council, to attend all meetings thereof, and to maintain a permanent record of all proceedings thereof; (2) to keep the books of accounts of the city. The term of office of the city clerk shall be two years.

"Sec. 9.3. City treasurer. The city treasurer shall be appointed by the city council.

"Sec. 9.4. City tax collector. The city council shall appoint a tax collector for the city, who shall be charged with the collection of all taxes and assessments except where a contract exists between the city and the county for the county tax collector to perform such collections.

"Sec. 9.5. Consolidating of functions of certain offices. The city council may, in its discretion, consolidate the offices of the city clerk, city treasurer, and city tax collector, and may assign the functions of any one of these offices to the holder of any other of these offices.

"Sec. 9.6. Oath of office required. Before entering upon the discharge of their duties, the holders of the following offices and positions shall be required to take the oath prescribed for public officers before some person authorized to administer oaths: the city manager, acting city manager, city clerk, tax collector, any assistant city clerk or assistant tax collector, city treasurer, chief of police and each member of the police force, the building inspector and all employees empowered to enforce the building code, and the electrical inspector and all employees empowered to enforce the electrical code.

"ARTICLE X.

"City Attorney.

"Sec. 10.1. Appointment; term. The city council shall at its organizational meeting, or as soon thereafter as practicable, appoint or elect a city attorney to serve for a term of two years.

"Sec. 10.2. Compensation. The compensation of the city attorney and any assistant to the city attorney shall be fixed by the city council.

"Sec. 10.3. Qualifications. The city attorney shall be an attorney-at-law admitted to practice in the State of North Carolina.

"Sec. 10.4. Designation of assistants and legal consultants. The city attorney may designate such assistant city attorneys and legal consultants as the city council may authorize in the budget.

"Sec. 10.5. Legal advisor for city. The city attorney shall be the legal advisor of and attorney and counsel for the city and for all officers thereof, in matters relating to their official duties.

"Sec. 10.6. Prosecution and defense of suits. The city attorney shall prosecute or defend all suits for and in behalf of the city.

"Sec. 10.7. Preparation of instruments. The city attorney shall prepare all contracts, bonds and other instruments in writing in which the city is concerned and shall endorse on each his approval of the form, correctness and validity thereof.

"ARTICLE XI.

"Civil Service.

"Sec. 11.1. Civil Service Commission established. There is created a Civil Service Commission consisting of five members. Each member must be a citizen and a resident of the City of Wilmington. No member shall be an officer or employee of the city, or be a member of the immediate family of an employee of the city or a former employee of the police or fire department.

The employees of the City of Wilmington Fire Department, by a majority vote, shall name one member. The employees of the City of Wilmington Police Department, by a majority vote, shall name one member. The City Council of the City of Wilmington, by a majority vote, shall name one member. The New Hanover County Medical Society governing board, by a majority vote, shall name one member. The Wilmington Ministerial Association governing body, by a majority vote, shall name one member.

The members of the commission shall serve a term of three years unless removed by the appointing authority. A member may be removed by a majority vote of all members of the agency appointing that member.

A vacancy is caused by death, resignation, disqualification, or removal. A vacancy is filled by the agency authorized to name the member causing the vacancy. If the agency fails to fill the vacancy within 60 days after notification, the resident senior superior court judge of the judicial district that includes New Hanover County shall immediately fill the vacancy. Members appointed to fill a vacancy serve for the remainder of the unexpired term.

The city council shall set the compensation for allowances, if any, to be paid the members of the commission. In November of each year, the commission shall elect a chairman and may elect other officers. A majority of the members of the commission constitutes a quorum. The commission may determine its own rules of procedure.

The city clerk shall be designated as permanent recording secretary to the Civil Service Commission. The recording secretary shall maintain the minutes of commission meetings and hearings, keep custody of commission records and notify members of meetings. The director of personnel shall act as an ex officio member of the commission representing the city on personnel matters to be handled by the commission. The commission shall within a reasonable time, supply the director of personnel with notification of any actions, reports, or recommendations made by the commission. The personnel office shall notify affected police and fire department members of actions, reports and recommendations made by the commission.

"Sec. 11.2. Jurisdiction. The Civil Service Act has jurisdiction over an employee of the Police Department of the City of Wilmington certified in accordance with Section 11.5 of this act and who is clothed with the full power of arrest and whose primary duty is that of enforcing the criminal laws of the city and State, excluding those employees whose primary responsibility is that of issuing parking tickets or collecting fees. The chief of the police department is not covered by the Civil Service Act.

The act shall apply to an employee of the Fire Department of the City of Wilmington certified in accordance with Section 11.5 of this act and whose primary function is that of protecting life and property through fire fighting, including those fire officers assigned to supporting services of the fire service. The chief of the fire department is not covered by the Civil Service Act.

"Sec. 11.3. Powers and duties. The commission:

(a) Shall approve reasonable requirements for employment and for examination of applicants. Positions shall be publicized. Examinations shall be competitive, open, and free to all persons meeting the commission's requirements. Examinations shall be practical in character, shall be limited to matters that fairly test the relative ability of the applicant to discharge the duties of the position and shall include tests of mental and physical qualifications and health. Employment procedures shall be consistent with federal and State regulations and the affirmative action policy as adopted by the city council. The director of personnel shall be responsible for implementing and administering personnel policies and procedures approved by the commission. Any standards for police or fire employees that are established by the State of North Carolina shall be included in the requirements for employment.

(b) Shall cause to be prepared and kept a register of persons passing the examinations. The established policy of the city will be followed in filling vacancies from the register.

(c) Shall make an annual report to the city council, city manager, and to the chiefs of the police and fire departments for posting on departmental bulletin boards. The commission may prescribe the form and content of the report.

(d) May secure necessary staff services and request assistance in the performance of its duties from the city manager.

(e) The commission may use the facilities of the city for holding any of its activities.

"Sec. 11.4. Appointment of chief of fire department and chief of police department. Appointments of the chief of the fire department and chief of the police department

shall be made by the city council and in making appointments to chiefs of the fire and police departments, due consideration shall be given to persons already employees of the respective department.

"Sec. 11.5. Probationary police and fire officers. Employees of the police and fire departments may be hired on a probationary basis for a period not to exceed 18 months. During this period the chief of the respective department may dismiss after notifying the city manager. At the end of the probationary period, an employee shall become certified, unless terminated prior thereto by action of the chief, with all rights and privileges contained in this Article.

"Sec. 11.6. Disciplinary action. (a) Except as provided in Section 11.5 of this act, an employee of the Police or Fire Department of the City of Wilmington may be dismissed only for cause and with an opportunity to be heard in his or her own defense. Council retains the authority to demote or terminate positions because of a lack of work or conditions beyond the control of the city. And furthermore, nothing in this Article shall be so construed as to deprive city council of its control over the finances of the city.

(b) The chief of the appropriate department may suspend, with or without pay, any employee of the police or fire department charged with violating any rule or regulation of the department, for a period not to exceed 30 calendar days. Within three working days after making any suspension, the chief shall file with the city manager a written statement setting forth the reasons for the suspension in detail. Within the same time, the chief shall give to the suspended officer a signed copy of the statement of the basis for the suspension. Within 10 working days after his suspension, the employee may file with the city manager a written request for a hearing. The city manager shall conduct the hearing within 30 calendar days thereafter.

If the employee is suspended without pay and the city manager finds that the suspension was not justified, or if the charges are dismissed, the employee shall be fully reimbursed for any loss of pay.

(c) With the approval of the city manager, the chief of the appropriate department may dismiss or demote any employee for violating any rule or regulation of the department of which the employee is a member. Within three working days after making any dismissal or demotion, the chief of the department shall file with the commission a written list of charges supporting the discharge or demotion. A copy of this statement shall be given to the city manager and the employee.

Within 10 working days after dismissal or demotion, the employee may file a written request for a public hearing before the Civil Service Commission, and such request shall contain a written response to each of the enumerated charges which was filed in support of the discharge or demotion. The commission shall conduct a hearing within 60 calendar days after receipt of the request.

If the commission determines that the employee has not violated a rule or regulation of the department, the commission shall reinstate with appropriate back pay. In the conduct of its investigations, the commission may subpoena witnesses, administer oaths and compel the production of evidence.

The commission upon finding any employee guilty may sustain the action of the chief or take any other action that may be deemed appropriate.

Any employee found guilty by the commission may appeal to a court of competent jurisdiction. The trial upon appeal shall be governed by the provisions of Article 4, Chapter 150A, of the General Statutes of North Carolina pertaining to Judicial Review of Decisions of Certain Administrative Agencies except that for purpose of G.S. 150A-45 the person seeking review must file a petition in the Superior Court of New Hanover County.

A person who may wish to appeal to the superior court shall file with the secretary of the commission a bond in an amount set by the commission, with sufficient surety conditioned that the person shall pay the cost of such appeal in the event such cost shall be levied against the person, and shall pay to the secretary the necessary fee for entering such appeal in the superior court within 10 calendar days after entry of such order or decree appealed from, and upon appeal, the secretary of the Civil Service Commission shall forthwith transmit to the superior court a complete transcript of all papers and proceedings concerning the order or decree or action of the Civil Service commission appealed from, together with the appeal bond and fee.

"Sec. 11.7. Enforcement of subpoenas. In the conduct of hearings or investigations, the members of the commission shall have the right and power to compel by subpoena both the attendance and testimony of witnesses or for the production of evidence that may be relevant to the case to be heard. The commission may apply to a court of competent jurisdiction for an order requiring that its order be obeyed. No testimony of any witness before the commission may be used against the witness on the trial of any criminal prosecution other than for false swearing committed on examination.

All persons testifying before the commission shall be administered the appropriate oath by the city clerk. The city clerk or other designated court recorder shall be responsible for recording all proceedings.

Any person, while under oath, at an investigation by the commission, willfully swearing falsely, shall be guilty of a misdemeanor.

"Sec. 11.8. Personnel policies. Unless specifically excepted by this act, all other ordinances and policies affecting the employees of the City of Wilmington shall apply to employees under the Civil Service Act.

"ARTICLE XII.

"Conduct of Officers and Employees.

"Sec. 12.1. Failure to turn over property to successor. Any officer of the City of Wilmington who shall, on demand, fail to turn over to this successor in office the property, books, moneys, seals or effects of such city shall be deemed guilty of a misdemeanor, and imprisoned for not more than two years and fined not exceeding one thousand dollars (\$1,000), at the discretion of the court.

"Sec. 12.2. Forfeiture of office upon conviction of bribery or malfeasance. Any member of the council or other officer or employee of the City of Wilmington convicted of bribery or of any crime amounting to malfeasance in office shall forfeit his office and the emoluments thereof.

"Sec. 12.3. Conflict of interest. It shall be unlawful for any member of the city council, or other officer or employee of the city, directly or indirectly, to become a contractor for work done for the city, or to become, directly or indirectly, personally

interested in or receive profit from any purchase of supplies for any department of the city. Any person violating this section shall be guilty of a misdemeanor.

"ARTICLE XIII.

"Fiscal Control; Purchasing and Contracts.

"Sec. 13.1. Applicability of Fiscal Control Act. Fiscal control practices in the city shall be subject to and governed by the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 13.2. Disbursements. All disbursements from the city treasury shall be made by warrant drawn on the city treasury by the director of finance pursuant to such rules and regulations as may be established by the city manager.

"Sec. 13.3. Duties of the director of finance. The director of finance, under the supervision of the city manager, shall prescribe the accounting procedures for all departments of the city and require such reports as may be necessary to reflect the financial condition of the city. He shall make such financial reports as may be required of him by the city manager and shall perform such other duties not in conflict with the Fiscal Control Act as may be required of him by the city manager.

"Sec. 13.4. Annual audit and financial report. The city council shall cause an audit to be made of the books of account, records and transactions of the administrative departments of the city at least once each year. Such audit shall be made by one or more competent accountants to be selected by the city council. Such report shall include a general balance sheet, exhibiting the assets and liabilities of the city, supported by departmental schedules; summaries of income and expenditures, supported by detailed schedules; and also comparison, in proper classification, with the last previous year. Such report, or a condensed summary thereof, shall be printed for distribution, or published, as the city council may direct.

"Sec. 13.5. Purchasing and contracts; general law applicable. All contracts of the city for construction or repair work or for the purchase of apparatus, supplies, materials, or equipment shall be made in compliance with the requirements of Article 8, Chapter 143 of the General Statutes of North Carolina.

"ARTICLE XIV.

"Port Facilities.

"Sec. 14.1. Authority of city to acquire, construct, and maintain port facilities. The City of Wilmington, a municipal corporation in the County of New Hanover, is hereby authorized to acquire by purchase or otherwise, construct, improve, enlarge, extend and equip any property or properties relating to or deemed to be necessary or advisable for the promotion, development, maintenance or operation of port facilities of the city, including but without limitation, warehouses, docks and loading facilities, conveyor equipment, and other storage, terminal and handline facilities, and to lease any such property or properties to a public agency or instrumentality or to any private person, firm or corporation and under such terms and conditions and for such period or periods as the governing body of the city shall deem to be in the best interests of the city.

"Sec. 14.3. Powers additional to other powers. The powers granted by Sections 14.1 and 14.2 are in addition to and not in substitution for any other powers heretofore or hereafter granted to the city.

"ARTICLE XV.
"Water Supply and Sewage Disposal.

"Sec. 15.1. Authority of city council to extend water mains and pipes connected with waterworks system. The city council shall have authority to extend, construct, maintain, change the location of or discontinue the water mains and water pipes connected with its present waterworks system.

"Sec. 15.2. Authority of council as to distribution of water and as to water rates. The city council by ordinance shall have authority to regulate and control the introduction, distribution and use of water in the city, and fix the rate at which water shall be furnished to consumers, and prescribe the time of payment, and may grant a rebate for payment of such rates within a designated time, and provide for the collection of all rents, rates, forfeitures or emoluments from the operation of the waterworks system and require the payment in advance of the water rates for water furnished in or to any building, place or premises and, after five days' notice, may cause the water to be shut off from any building, place or premises on account of the nonpayment of such rates or rent.

"Sec. 15.3. Authority of city council as to interference with water supply to building and as to turning on water when shut off for failure to pay water rent. The city council shall have authority to prescribe penalties against any person who shall interfere with the water supply of any building, place or premises or who shall turn on the water in or to any building, place or premises after the same shall have been cut off and before payment of arrears in waters rents.

"Sec. 15.4. Authority of city council to require connection with water mains and fix rates for connection with and use of water mains. The city council may require the owners of real property upon which residences or other buildings are located abutting upon the streets in which any water mains are located, or within a reasonable distance thereof, to connect such residences or other buildings with water mains connected with the waterworks system of the city, under such rules and regulations and upon such conditions as the city council shall by ordinance fix and establish.

The city council shall have the right to fix reasonable fees to be charged property owners for the privilege of connecting with such water mains and the subsequent use thereof.

"Sec. 15.5. Authority of city council as to collection of rates established pursuant to Section 15.4. The city council shall have the right and power to pass such ordinances as shall be necessary to enforce the collection of fees and charges established, pursuant to Section 15.4, relative to the privileges of connecting with water mains and subsequent use thereof.

"Sec. 15.6. Authority of city council to extend sewers connected with sewerage system. The city council shall have authority to extend, construct, maintain, change the location of or discontinue the sewers connected with its sewerage system.

"Sec. 15.7. Authority of council as to regulation of sewerage system and as to rates for use thereof; advance payment of connection charges or charges for use. The city council by ordinance shall have authority to regulate and control the sewerage system and all extensions thereof or additions thereto, and fix the rate at which the same may be

used by the citizens of the City of Wilmington. The city council shall prescribe the time of payment and may grant a rebate for payment of such rates within a designated time, and provide for the collection of all rates, forfeitures or emoluments from the operation of the sewerage system, and require payment in advance of the rates for connecting therewith or for using the same, in any building, place or premises.

"Sec. 15.8. Authority of council as to interference with sewerage system. The city council may prescribe penalties against any person who shall interfere with any part of the sewerage system or connections with any building, place or premises, or who shall obstruct, disconnect or interfere with the same or any part thereof.

"Sec. 15.9. Authority of council to require sewer connection and to establish connection and use charges. Upon the giving of a reasonable notice in writing, which shall not be less than 30 days, the city council may require the owners of any real property upon which residences or other buildings are located abutting on the streets in which any sewers are located or within a reasonable distance thereof, to connect such residences or other buildings, with such public sewers under such reasonable rules and regulations, and upon such conditions, as the city council shall by ordinance fix and establish, in which shall be included the right to fix reasonable fees and rates to be charged such property owners for the privilege of connecting with such sewers and the subsequent use thereof.

"Sec. 15.10. Failure to make sewer connections when required by council. For failure to make sewer connections when required by council, the property owner is guilty of a misdemeanor and is subject to a fine of fifty dollars (\$50.00) per day for each day violation persists.

"Sec. 15.11. Authority of council to enforce collection of sewerage connection and use charges. The city council shall have the right and power to pass such ordinances as shall be necessary to enforce the collection of all such fees and charges provided for in Sections 15.6 to 15.10 as to connection with and use of sewerage system and extensions of and additions thereto.

"Sec. 15.12. Examination of premises when waste of water is known or suspected. Where unnecessary waste of water is known or suspected, the city council shall have the authority to cause entry to be made, at reasonable hours, after demand and refusal, into and upon any building, place or premises where such water is taken and used, and examine and inquire into the cause of the water thereof, and may prescribe penalties for any person who refuses to permit such examination or obstructs the performance of this duty. The supply of water may be cut off until such examination is made.

"Sec. 15.13. Accounts of receipts on account of operation of waterworks and sewerage systems. Accurate account shall be kept of all receipts and disbursements and expenditures on account of the operation of the waterworks and sewerage systems separate from the other funds of the city.

"Sec. 15.14. Diversion of water; pollution of water; injuring, destroying, water or sewerage systems. If any person shall maliciously or willfully divert the water, or any portion thereof, from the city waterworks, or shall corrupt or render the same impure, or shall destroy or injure any canal, aqueduct, pipe or other property used or acquired for procuring or distributing the water, or connected with the sewerage system of the City

of Wilmington, or any part of same, or shall otherwise interfere with, injure, destroy or change either the water or sewerage systems, or any part of the same, the person shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding five hundred dollars (\$500.00) or shall be imprisoned not exceeding two years, at the discretion of the court.

"Sec. 15.15. Use of ground within railway right-of-way, street, for extending waterworks or sewerage systems. The city council shall have the right to use the ground or soil within the right-of-way of any railway, highway, public lane or alley, for the purpose of extending or improving, enlarging or adding to the waterworks or sewerage systems and may carry pipes under any railroad or highway for such purposes, under condition that such property shall not be permanently injured and shall be restored to its original condition or damages done thereto repaired as expeditiously as may be reasonable and with as little inconvenience to the owners of such disturbed property as may be actually necessary.

"Sec. 15.16. Enforcement of connections with water system; record book for water and sewerage connections. Whenever it shall become necessary, in the opinion of the city council that any premises now occupied or which may hereafter be occupied should be connected with the water system of the city, and the owner or agent of such premises shall fail to make such connection voluntarily, at his own expense, or neglect to do so, the city council of the city shall have the right and power to enforce such connection in manner and form following: The city council shall cause a notice to be served in writing upon the owner of such building or premises or his agent, and if neither the owner nor agent can be located, then a notice placed conspicuously upon the premises itself shall be sufficient for such purpose, designating a time within which such owner is required to make such connection with the waterworks system of the city, and if at the expiration of the time designated in such notice such owner or agent shall have failed, refused or neglected to make such connection or to give satisfactory proof to the city council of this purpose and intention so to do within a reasonable time, the city council may cause such connections with the waterworks system of the city to be made by and under the supervision and direction of the director of public works of the City of Wilmington, subject to the supervision and control of the city manager as to cost of the same, and shall pay the cost of making such connection and the cost thereof, furnished by the city manager, shall be entered by the city clerk and treasurer in a book to be designated "Water and Sewerage Connections," which book shall be kept by him and be preserved as a record in his office for public examination, and the amount of such costs from the time of the completion of such work and the entry thereof on such book shall be and constitute a lien upon the property whereon such connections were made, of equal dignity to taxes, and shall be collected in manner and form as hereinafter provided.

"Sec. 15.17. Making water and sewer connections when property owner is nonresident, infant. Whenever and wherever, for reasons satisfactory to the city council, it shall be made to appear that the owner or owners of premises cannot be found, nor any representatives of them can be located in the City of Wilmington, or that such owners are infants, incompetents, indigents or prisoners, the city council may cause the work of making connections with either the water or sewerage system, or both, to be

done by the City of Wilmington under the supervision of the director of public works, subject to the supervision of the city manager as to the cost of same, and may provide the material and costs of doing the work at its own expense, and in the cost thereof may include an item of sufficient amount to reimburse the city for the services of its officers and time expended by them in making the same. The total cost of the work shall be entered upon the book provided for in Section 17.16, and shall be a lien upon the premises of equal dignity to taxes, and shall be collected as hereinafter provided.

"Sec. 15.18. Interest on and procedure for collection of connection costs. The total cost against each property owner entered upon the book provided for in Section 15.16 shall bear interest from the date of entry at the rate to be established by the city council not to exceed the legal rate authorized by the General Statutes of North Carolina, and the time of payment thereof shall be fixed and determined by the city council and, upon default in the payment thereof by such owner within the time therein prescribed, the same shall be collected by the City of Wilmington by an action to be brought in any court of competent jurisdiction. The service of the summons in such action shall be as provided by State law. In such action and on the trial thereof the entry in the book so provided for, or a certified copy thereof under the head of the city clerk, with the corporate seal of the City of Wilmington attached thereto, shall be *prima facie* evidence of all the facts and things therein stated and the only defense, which the defendant in such action may set up in opposition thereto shall be a denial of the fact that the costs therein set forth were incurred or that the same have been paid.

A certificate of the city clerk under seal of the city, wherein the City of Wilmington shall be recited as the plaintiff and the name of the owner or owners of the premises recited as the defendants, together with a sufficiently definite recital of the premises to identify the same, and the amount of costs incurred in the making of the connections, and when the same was paid by the city, shall constitute a sufficient complaint in such an action.

And judgment shall be entered by the court condemning such property to sale and a date fixed for such sale. Notice of such sale shall be given by publication once a week for four weeks in a daily newspaper published in the City of Wilmington and the first publication thereof shall be 30 days prior to such sale. Such sale shall be made by and under the supervision and control of the court who shall appoint a commissioner for such purpose. Such commissioner shall report to such court all his acts and doings in the premises for confirmation and, upon confirmation, the judgment of the court shall provide for all the costs and expenses of such action, including an allowance of ten percent (10%) to the commission, and any balance which may remain after the payment of the costs and expenses of such action and the judgment in favor of the city shall be paid into the office of the clerk of the superior court for the benefit of the owner or owners of the property.

In all such cases either party shall have the right of appeal from a final judgment entered therein, upon giving bond, with sufficient security, the amount of which shall be fixed by the court and the surety to be approved by the clerk thereof, conditioned for the performance and payment of such judgment on the part of the defendant, if the defendant shall appeal, together with the costs of the action, the amount of which bond

shall be at least double the amount of judgment rendered in favor of the city and one-half as much more, to cover the costs of the action. If the city appeals, no bond shall be required. On such appeal a transcript of the record in the trial court, duly certified by the clerk of such court, shall constitute the record in the court to which such action is appealed, and such appeal shall be heard in such court as similar action. All judgments and decrees entered in any such action shall be entered upon the records in the office of the clerk of the trial court and docketed in like manner as judgments of such are required to be entered and docketed by law and shall have like force and effect of such judgments.

"ARTICLE XVI.

"Closing of Public Streets and Alleys.

"Sec. 16.1. Closing of public streets and alleys. (a) The city council shall have the power to close any public street or alley or portion thereof that is now or may hereafter be opened or dedicated, either by the recording of a plat or otherwise except public streets or alleys for public streets under the control and supervision of the Board of Transportation, such closing to be pursuant to North Carolina General Statute 160A-299. Upon receipt of a sufficient application and petition signed by the majority of property owners owning the majority of the property abutting the public street or alley, requesting the closing, and after an investigation of the sufficiency of the application and petition by the city attorney or other designated individual or agency, and after a review and recommendation by the planning commission, the city council may adopt a resolution declaring the intent to close the public street or alley and calling a public hearing on the question. The resolution shall be: (1) published once a week for four successive weeks prior to the hearing; (2) a copy thereof shall be sent by registered or certified mail to all owners of property adjoining the street or alley as shown on the New Hanover County tax records; and, (3) a notice of the closing and public hearing shall be prominently posted in at least two places along the street or alley. If the public streets or alleys are under the authority and control of the Board of Transportation, a copy of the resolution shall be mailed to the Board of Transportation. At the hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual. If it appears to the satisfaction of the city council after the hearing that the closing is not contrary to the public interest, and that no individual owning property in the vicinity of the public street, passageway, or easement or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the city council may adopt an order closing the public street or alley. A certified copy of the order (or judgment of the court) shall be filed in the office of the Register of Deeds of New Hanover County.

(b) Any person aggrieved by the closing of any public street or alley may appeal the council's order to the General Court of Justice within 30 days after its adoption. The court shall hear the matter de novo, and shall have full jurisdiction to try the issues arising and to order the public street or alley closed upon proper findings of fact by the jury. No cause of action or defense founded upon the invalidity of any proceedings taken in closing any public street or alley may be asserted, nor shall the validity of the

order be open to question in any court upon any ground whatever, except in an action or proceeding begun within 30 days after the order is adopted.

(c) Upon the closing of a public street or alley in accordance with this section, all right, title, and interest in the right-of-way shall be conclusively presumed to be vested in those persons owning lots or parcels of land adjacent to the public street or alley and the title of such adjoining landowners, for the width of the abutting land owned by them, shall extend to the centerline of the public street or alley.

(d) This shall apply to any public street or alley that has been irrevocably dedicated to the public, without regard to whether it has actually been opened.

(e) The resolution ordering the closing of the public street or alley may provide for utility rights-of-way to be retained by the city or public utility company, if needed.

(f) No public street or alley under the control of the Board of Transportation may be closed unless the Board of Transportation consents thereto.

(g) A fee shall be paid to the city by the applicant upon and regardless of the final action by the city council, to cover the cost of advertising and other administrative expenses incurred for the closing of the public street or alley.

"ARTICLE XVII.

"Establishment of Proposed Street Lines.

"Sec. 17.1. Authorized; notice and hearing. Whenever in the opinion of the city council, it is for the best interest of the city that any street should be widened or extended, or both, or that a new street should be widened or extended, or both or that such new street should be opened, or shall lay out in the ordinance the lines within which such streets should be widened, extended, or opened. If any street under the provisions of such ordinance is to be widened, it need not be widened on both sides; and, if it is to be widened on both sides, the distance to be widened on both sides need not be the same. Any ordinance introduced for the purpose of widening, extending, or opening any street under the provisions of this charter, may not be adopted until the proposed ordinance is published in the newspaper published in the city and qualified to carry legal notices at least two times, on separate days, at least 10 days before the passage of the ordinance, or, if there be no such newspaper, posted in three public places in the city. There shall be posted or published with the ordinance a notice stating when property owners may be heard by the council. A public hearing on the question of the adoption of such ordinance shall be held prior to the passage of the ordinance. Council may refer the matter to the Wilmington-New Hanover Planning Commission for study and recommendations, but no public hearing shall be necessary before the planning commission.

"Sec. 17.2. Notice to city prerequisite to improvement in proposed street lines. After the passage of such ordinance, it shall be unlawful for any land within the proposed street lines established by such ordinance to be built upon or improved, or for any part of any existing building within such lines to be repaired or otherwise improved until the city shall have been given an opportunity to purchase or otherwise acquire such property for street purposes as provided in this charter. To that end, any person proposing to build upon such land or to make repairs or improvements to that part of any existing building situated thereon 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 such property prior to the construction of such building or the making of such repairs or improvements and if it fails from 60 days from date of receipt of such notice to acquire, or to institute condemnation proceedings to acquire such property, the owner or other person giving such notice may proceed to erect the building in accordance with the ordinances and regulations of the city, or to make the repairs or improvements described in such notice.

"Sec. 17.3. Failure to give notice bars recovery for improvements. If any person, firm, or corporation builds upon any land included within proposed street lines, or repairs or otherwise improves that part of any existing building within the proposed street lines without giving the city an opportunity to acquire such land free from such improvements, as provided in the preceding section, the city shall not be required to pay for the value of the building, repairs, or improvements in any proceedings subsequently brought to acquire such land for the purpose set out in the preceding section.

"Sec. 17.4. Acquisition of land prior to improvement. If upon receiving a notice in compliance with Section 17.2 the city council determines to acquire such land immediately, it may acquire the same by grant, purchase, or condemnation. In no case shall an effort to purchase such land be necessary to the institution of condemnation proceedings. If the council determines to proceed by condemnation, the condemnation shall be as set forth in this charter.

"Sec. 17.5. Cost of land acquired to be assessed as part of improvements. After any land has been purchased or condemned for the purpose of widening, extending, or opening any street, and land purchased or condemned lies within the limits of an improvement directed in such proceedings, then the amount paid by the city for the land purchased or condemned, together with the cost of the condemnation proceeding and interest on such amount paid and costs at the rate of six percent (6%) per annum from the date of payment, shall be included in the cost of such improvement and shall be assessed as provided by law against the property to be assessed for the improvements.

"Sec. 17.6. Exercise of condemnation power after failure of city to acquire following notice of improvement. The failure of the city to acquire any land within 60 days after receiving notice that the same is to be built upon, or that a building thereon is to be repaired or otherwise improved, or its failure within such time to institute proceedings to condemn same, shall not limit the right of the city at any subsequent time to condemn the same; but in such case the owner shall be entitled to compensation as now provided by law for the building, repairs, or improvements made after the giving of required notice and the failure of the city to acquire such land free of such improvements.

"ARTICLE XVIII.

"Eminent Domain.

"Sec. 18.1. Authority of city generally; interest acquired; proceedings against infants. The City of Wilmington shall possess the power of eminent domain, and may acquire, either by purchase or condemnation, any land, right of access, right-of-way, water right, privilege, easement, or any other interest in or relating to land or water, including the dwelling house, yard, kitchen, garden or burial ground of any person, without regard to the limitations of Section 40-10 of the General Statutes of the State,

either within or beyond the city limits, including and limited to a right-of-way in and across lands owned and held as right-of-way by a railroad or other public utility company; provided, that the operation of such railroad or other public utility company may not be impaired unreasonably thereby, for any lawful public use or purpose. Unless otherwise expressly provided in the condemnation resolution a fee simple title shall pass to the city upon the condemnation of any such interests. In any case where the owner of land to be condemned or any interest therein is a minor, an insane person, or otherwise under any disability, any notice hereinafter required by this division to be served upon such owner shall be served upon his guardian, and service upon such guardian shall be sufficient without service on the minor, insane person, or person under disability. Thereafter such guardian may exercise, on behalf of his ward with respect to such condemnation proceeding, all the powers conferred upon such person as owner. Water rights, or other interests relating to water, may be condemned under the procedure set forth in this division for the condemnation of land, and the interests therein.

"Sec. 18.2. Effort to purchase not prerequisite to condemnation. It shall not be necessary to the condemnation by the city of any land or interest therein, whether pursuant to this division or otherwise, that the city shall have attempted to acquire the needed land by grant or purchase prior to the commencement of the condemnation proceedings.

"Sec. 18.3. Resolution proposing condemnation. (a) When any land required by the city for any purpose allowed by this charter, or the general law of the State is proposed to be condemned under the specific provision of this charter, the city council shall adopt a resolution which shall contain substantially the following provisions:

- (1) A description of the land proposed to be condemned in fee, or of the interest or easement proposed to be condemned.
- (2) If there is any building or other property situated wholly, or partly upon the land to be condemned, the determination of the city council as to whether the owner shall be allowed to remove such property, or whether the same shall be condemned.
- (3) A statement of the purpose for which said land or easement is proposed to be condemned.
- (4) The name and address of the owner, or owners, of said land and of any other person or persons interested therein whom it is necessary to make a party to the proceeding.
- (5) The name of a disinterested freeholder of the city, appointed as appraiser by the city council.
- (6) A notice that the owner, or owners, of such land, or interest therein, or a majority in interest of such owners, may, within 15 days of service of such resolution upon all of them, appoint one appraiser, who shall be a disinterested freeholder of the city to represent them, the name of which appraiser shall be reported in writing to the city clerk within such 15 days.
- (7) A notice that the appraiser appointed by the city, and the appraiser appointed by the owner or owners, or if the owner or owners fail to

appoint, then the two appraisers appointed by the city, shall appoint a third appraiser, and the three thus appointed shall constitute a board of appraisers, whose duty it shall be to determine the damages and benefits which will result from the condemnation of such land or easement or interest therein.

(8) A notice of the time fixed for the first meeting of the appraisers, and if such meeting will be held upon the premises to be condemned.

(b) It shall not be necessary to institute separate condemnation proceedings against the several owners of tracts or parcels of land affected by proposed local improvements.

"Sec. 18.4. Service. A copy of the resolution proposing condemnation shall be personally served upon each of the owners of land proposed to be condemned; provided, that if the resolution cannot be personally served upon any of the owners then it may be served by publication once a week, for two successive weeks in some newspaper published in the city, which is qualified to carry legal notices, or, if there be no such newspaper, by posting in three public places in the city.

"Sec. 18.5. Failure of owners to appoint appraisers. If within 15 days after service of the resolution upon all of the owners, they, or a majority in interest of them, fail to appoint an appraiser and to report his name to the city clerk, the city council shall appoint a disinterested freeholder of the city to represent them.

"Sec. 18.6. Appointment of third appraiser; oath of appraisers. The appraiser appointed by the city council and the appraiser appointed by the property owner, or owners, or if the owner, or owners, fail to appoint, then the two appraisers appointed by the city council, shall appoint a third appraiser, who shall be a disinterested freeholder of the city and shall report his name to the city clerk. Each appraiser shall take an oath or affirmation that he will fairly and impartially discharge his duties as an appraiser.

"Sec. 18.7. First meeting of appraisers. At the time fixed by the resolution of condemnation, the appraisers shall meet on the premises to be condemned. If, for any reason the meeting cannot be held at the time fixed by the appraisers, in which case notice of the time and place of the meeting shall be personally served, then it may be served by publication once a week for two successive weeks in some newspaper published in the city which is qualified to carry legal notices, or, if there be no such newspaper, by posting in three public places in the city. The notice, whether given personally, by publication, or by posting, shall be served not less than five days prior to the date of the hearing. At the first meeting the appraisers shall view the premises affected by the proposed condemnation; and shall hear, but need not reduce to writing, any evidence as to damages and benefits that will result from the proposed condemnation presented by the owners or by the city. The appraisers shall make their report at, or after the hearing, or they may, in their discretion, hold subsequent meetings.

"Sec. 18.8. Subsequent meetings of appraisers; when notice required. Subsequent meetings of the appraisers shall be held at such time and places as may be determined by them. Of such meetings no notice need be given, either to the owners or to the city, unless such meetings are to be public and for the purpose of hearing evidence. If held for such purpose, then unless such meeting is held at a time and place to which a former

meeting of which the parties had lawful notice was adjourned, notice of the meeting shall be personally served upon all parties, or, if such service cannot be personally served, it may be served by publication once a week for two successive weeks in a newspaper published in the city, which is qualified to carry legal notices, or, if there be no such newspaper, by posting in three public places in the city. The notice shall be served, or publication or posting thereof completed not less than five days prior to the time fixed for the meeting.

"Sec. 18.9. Determination of damages and benefits; report. Determining the compensation to be paid by the city for the land or easement condemned, the appraiser shall take into consideration both the loss or damage which will result to the owners from the condemnation of the land or easement and the benefits that will result to any remainder of such land from the improvement for which the land or easement is to be condemned, the benefits to include both benefits for advantages special to the land, and benefits or advantages to the land, in common with other lands affected by the improvement. The appraiser shall also take into consideration the value of any building or other property situated upon the land proposed to be condemned, if the owner is to be allowed to remove the building or other property, and the value thereof shall not be included in the compensation award. Having determined damages and benefits, the appraisers shall make their report to the city council, in which report the appraisers shall show separately the amount of damages, the amount of benefits, and the amount which shall be paid by the city if it finally condemns the land or easement. In the event the property condemned is subject to a recorded lease, or leases, the appraisers shall apportion the award between, or among, the person or persons owning fee or fees and the person or persons owning the sole interest or interests; but in no event shall the total of the amount so apportioned exceed the value of the property were it not subject to a recorded lease or leases. The report shall be sufficient if it is concurred in by two of three appraisers. In the event that no two of the three appraisers can agree upon an appraisal, three new appraisers may be appointed in the same manner as the original appraisers, and the new appraisal board shall follow the same procedure as required of the original appraisal board.

"Sec. 18.10. Action of council on report of appraisers. Within 30 days after the report of the appraisers is submitted to the city council, the council shall determine what action it will take thereon. If the council determines to abandon the proposed condemnation, it shall adopt a resolution to that effect; but the abandonment of the condemnation shall not prevent the city council from thereafter instituting a proceeding to condemn the same land or easement. If the council determines to condemn the land or easement, it shall adopt a resolution which shall contain substantially the following:

(1) A recital that a board of appraisers has been appointed to determine the compensation to be paid for the land or easement, as provided by this charter, and that the appraisers have submitted a report to the council.

(2) A statement of the amount of damages and benefits as fixed by the appraisers and of the compensation to be paid by the city for the land or easement condemned as fixed by the appraisers.

(3) The determination of the council as to the condemnation of the land or easement.

(4) A description of the land condemned in fee, or of the easement condemned.

(5) A statement of the purpose for which the land or easement is condemned.

(6) The name of the owner or owners of the land and of other persons interested therein who were made parties to the proceeding.

(7) The determination of the council as to the time when the city will take possession of the land or easement condemned, and a direction that such premises shall be vacated by such time, and, in case the owner is allowed to remove any building or part thereof, or any other property on the premises, a direction that such property shall be removed before said date and that if the owner fails to remove the same within such time, the council will have the same removed and the cost thereof shall be a lien upon the remainder of the property.

"Sec. 18.11. Vesting of title in city. The adoption by the city council of a final resolution of condemnation, as provided in the preceding section shall have the effect of a judgment against the City of Wilmington for the amount of compensation fixed by the appraisers, and shall vest in the city title to the land or easement condemned.

"Sec. 18.12. Appeal to superior court. If upon the adoption by the city council of a final resolution of condemnation, either the owner of the land or easement condemned or the city council itself is dissatisfied with the amount of the compensation to be paid for such land or easement as fixed by the appraisers, such owner, or the city, or both may, within 10 days after the date of the adoption of such resolution, appeal to the Superior Court of New Hanover County. The party, or parties, appealing shall, within such 10 days, give notice of appeal to the other party by personal service if practicable and, if not, by publication of a notice one time in a newspaper published in the city, which is qualified to carry legal notices. The appeal, or appeals shall not interfere with the vesting in the city of title to the land or easement condemned or hinder the city in any way in proceeding with the improvements for which such land or easement was condemned, except that if the land or interest therein is owned by another public or quasi-public body, or by a railroad or public utility company, the vesting of title in the city shall not become effective until the court has rendered final judgment on the question of whether the condemnation by the city is in the public interest, and has determined the amount of compensation to be awarded for the condemnation, in which case the court may, in its discretion, reduce the amount of land, or interest therein, which it shall allow to be condemned.

"Sec. 18.13. Record upon appeal. Upon the appeal taken by either party, the city clerk shall certify a copy of the record in the condemnation proceeding to the Superior Court of New Hanover County, and such appeal shall be tried as other actions at law. The record upon appeal shall be composed of the preliminary resolution of condemnation, the oath of appraisers, the report of appraisals, the final resolution of condemnation, and the notice, or notices of appeal. The record upon appeal, or any part thereof, shall be competent as evidence upon the trial of an appeal.

"Sec. 18.14. Condemnation before determination of compensation. When, in the judgment of the city council, the public interest requires that the city enter into

immediate possession of any land, it shall adopt a resolution stating such necessity, and the reason therefor, and condemning the required land or easement, and providing for the determination of the compensation to be paid by the city for the land or easement. The procedure therefor with respect to determination of such compensation shall follow as closely as practical the provisions of this Article, or of the provisions of general law concerning 'Eminent Domain'. This section shall not apply to land, or interest therein, owned by another public or quasi-public party, or railroad or public utility company.

"Sec. 18.15. Registration of condemnation proceedings. In any case where any land or easement therein has been, or may hereafter be condemned by the city council, a copy of so much of the condemnation proceedings as may be necessary to show the land or easement therein condemned and the condemnation thereof shall be certified by the city clerk and the same, upon being probated by the clerk of the superior court, or other person authorized by law to probate instruments for registration, shall be registered in the office of the Register of Deeds of New Hanover County.

"Sec. 18.16. Sale or other disposition of land condemned. When any land condemned in fee by the city is no longer needed for the purpose for which it was condemned, the same may be used by the city for any other public purpose, or may be sold or otherwise disposed of according to law.

"Sec. 18.17. Removal by city of structures on condemned land; lien. When any property upon which any building or other structure is wholly or partly located, is condemned by the city under the provisions of this charter, or any other law, and the owner is allowed to remove such building or structure, or part thereof, the city council may, after the report of the appraisers has been made, name the time within which the owner may remove the building or structure, or part thereof, and if the owner fails to remove the same within such time, the council may remove the same and the cost thereof shall be a lien upon the remainder of the land, or such cost may be recovered by the city in any court of competent jurisdiction.

"Sec. 18.18. Procedure not exclusive. The condemnation procedure set forth in this division shall not be exclusive, but shall be in addition to any other procedure provided by law.

"Sec. 18.19. Procedure not applicable outside New Hanover County. The condemnation procedure set forth in Article 2 of Chapter 40 of the General Statutes of North Carolina, and not the procedure set forth in this division, shall be applicable to the exercise of the power of eminent domain by the city for the condemnation of any land, right of access, right-of-way, water right, privilege, easement, or any other interest in or relating to land or water which is or are, located outside of the geographic boundaries of New Hanover County.

"ARTICLE XIX.

"Local Improvements.

"Sec. 19.1. Definitions. Certain words and phrases will be used with the following meanings with reference to local improvements, unless some other meaning is plainly intended;

'Lateral'. 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 extended from a lateral at the property line or curb line to the house or plumbing fixture to be served.

'Roadway'. A 'roadway' is the part of a street which is used, or to be used, for vehicular traffic.

'Sanitary sewer'. A 'sanitary sewer' is an underground conduit for the passage of sewage and may include a pumping station and outlet.

'Sewer'. The word 'sewer' includes both sanitary and storm sewers unless a contrary intention is shown.

'Sidewalk'. A 'sidewalk' is the part of the street which is used, or to be used, for pedestrian traffic.

'Storm sewer'. 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.

'Street'. A 'street' is the entire width between property lines of every way or place, of whatever nature, when any part thereof is dedicated or opened to the use of the public as a matter of right for the purpose of vehicular or pedestrian traffic. The term 'street' when used herein, shall include any street, alley, highway, avenue or public place or square, bridge, viaduct, tunnel, causeway, and sidewalk lying within a public right-of-way, dedicated or devoted to public use.

'Water main'. A 'water main' is a pipe for the passage of city water for public hydrants and private and public use and consumption.

"Sec. 19.2. Authority of city generally. The City Council of the City of Wilmington shall have the authority to make local improvements described in this charter, to undertake same without assessment, or to assess the cost of such local improvements against the benefited property. The procedure set forth in this division shall not be exclusive, but shall be in addition to any other procedure provided by law, specifically that procedure contained in Article 10, Special Assessments, Section 160A-216 through 160A-236, of the General Statutes of North Carolina, as they now exist or may hereafter be amended.

Any procedure not specifically covered in this charter shall be accomplished in accordance with Article 10, Special Assessments, Chapter 160A, General Statutes of North Carolina, insofar as this division is applicable to the particular proceeding.

The city council shall have full power and authority, by ordinance, to grade, pave, repave, and otherwise permanently improve for travel and drainage any street, sidewalk or public alley of the city; to put down curbing, cross-drainage, and crossings on the same; and to lay out and bound new streets, or widen those already bounded, and make such improvements thereon as the public convenience may require. The city council shall also have full power and authority by ordinance to construct, reconstruct, extend or alter sanitary sewers, water mains, or storm sewers, or to make such other public improvements as it shall deem to be in the public interest.

The city 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 in grade 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, 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 of 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 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 of 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 without petition if the council so directs, it may include the construction or reconstruction of curbs, gutters and drains, and the construction and reconstruction of all such portions of driveways as in the judgment of the council ought to be laid within the street area.

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

"Sec. 19.3. Land subject to assessment generally. No lands in the city, including property of the State of North Carolina, its agencies or subdivisions, shall be exempt from special assessments except the lands belonging to the United States, which are exempt under the provisions of federal statutes, and the city 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.

"Sec. 19.4. 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 the 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 costs 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) Any case where there is park land or unimproved land abutting one side, or a part of one side, of a street.
- (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 special assessment against it cannot be made, or, if made would probably exceed the value of the land assessed.
- (3) Where the owners of all the property to be assessed agree thereto.

"Sec. 19.5. Petition generally, certificate of sufficiency. (a) Except as otherwise provided in subsection (b) of this section, 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 abutting property 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 attorney.

(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) of this section, 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 the street intersections.

(d) (1) A petition for the making of local improvements on one side of the 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 the frontage of the land abutting such side of the street, excluding street intersections.

(2) Any petition for the making of any improvements covering the entire width of the street and the assessment of the costs thereof against the land abutting one side of the street only or against any land less than

all of these 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 of the owners of undivided interests in any lands shall be deemed and treated as one person and such lands 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 any estate by entirety, or of the estate of inheritance, and shall not include mortgages, trustees of a naked trust, trustees under deeds of trust to secure the payment of money, lienholders, or persons having inchoate rights of courtesy or dower.

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

"Sec. 19.6. When petition unnecessary. (a) City to pay costs. No petition shall be necessary for the making of any local improvements for which the city bears the entire cost without assessments.

(b) Benefit of least equal to assessment. 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 subsection (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 portions thereof within a 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 and can be served, and the sanitary sewer service should be provided in the public interest.

(f) Storm sewer improvements. 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.

"Sec. 19.7. Public hearing; notice. (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 the 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 the publication or posting to be not less than 10 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 if such owners can be found with reasonable diligence within the city. If any such owner cannot with reasonable diligence be found within the city then a copy of the notice shall be mailed to his address as nearly as the same can be ascertained with due diligence. The certificate of the person designated to serve or mail the notices that such notices were served or mailed shall be conclusive in the absence of fraud. The serving or 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 19.5.

(c) 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 this section, together with objections to the policy or expediency of the making of the improvements, and the council shall thereafter determine whether it will order the making of the improvements. Any objection 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 final adjudication of the issues presented, unless within 10 days after the adoption of the resolution proper steps shall be taken in a court of competent jurisdiction to secure relief.

"Sec. 19.8. Resolution ordering improvements; publication. (a) 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 of such facts as are required in order to authorize improvements without petition.
- (2) If the improvements are to be made without petition, a finding of 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 such 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 city council may prescribe, and that unless such paving be completed on or before a day specified in the resolution, the city council will cause the same to be done and direct that assessment be made against the owning railroad company for the cost of such work.
- (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 and sewers and a further provision that the costs 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, 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 30 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.

(b) The resolution after its passage shall be published at least once in some newspaper published in the city which is qualified to carry legal notices, or, if there be no such newspaper, the resolution shall be posted in three public places in the city for at least five days; except, that in any case where the council directed that the notice should be served or mailed instead of being published, the resolution ordering the improvements need not be either published or posted.

"Sec. 19.9. Upon the advice of the Department of Public Works and Engineering and Services, the city 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 city forces. The council shall have power also, unless otherwise limited, to determine the number of water and sewer 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.

"Sec. 19.10. Determination as to cost of improvements. Upon completion of the improvements, the city 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, and the cost of acquisition of right-of-way which is necessary for the improvement. The determination of the council as to the total cost of any improvement shall be conclusive.

"Sec. 19.11. 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) of this section, the preliminary assessment shall be as follows:

- (1) Roadway paving. No assessment shall be levied for the following costs:
 - (A) The cost incurred at public street or alley intersections.
 - (B) On streets abutting residential property, that cost of pavement in excess of 30 feet in width, exclusive of curb and gutter, which cost shall be borne by the city.

Fifty percent (50%) of the cost of any roadway paving improvement (excepting A and B above) 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 entire cost shall be assessed against the lands on one side of the street only, or against such lands as were designated in the petition.

In lieu of the above stated rate of assessment of 50 percent (50%) of the cost, the council may designate a uniform cost per front foot to be assessed for pavements installed during a certain period of time.

For the purpose of assessing for roadway pavement on a residential street, a 30-foot wide street (exclusive of the width of curb and gutter) shall be deemed sufficient for ingress and egress to residential property. An assessment covering the costs of construction, reconstruction, or widening of a street abutting residential property shall not be greater than would have been necessary to provide this 30-foot wide street. In computing the assessment, the property owner shall be charged with the cost of the curb and gutter plus the roadway construction costs for a 30-foot wide pavement. This provision has no application to the assessment of the costs of sidewalks or driveways, the costs of which improvements are to be assessed entirely or partially to the abutting frontage, or to storm or sanitary sewers or water mains, which costs are to be assessed as provided under paragraph (2) of subsection (a) of this section.

(2) Water mains and sewers. The cost of not exceeding an eight-inch water main, and an eight-inch sanitary sewer main, and not exceeding a 30-inch storm sewer main shall be assessed against the abutting property. Such costs shall be assessed against the lots and parcels of land according to their respective frontages thereon by equal rate per foot of such frontage. If a water main in excess of eight inches, a sanitary sewer main in excess of eight inches in size, or a storm sewer in excess of 30 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 constructed 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 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 front foot 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 portion of the cost of any improvement than that set forth in paragraph (2) of subsection (a) of this section, there shall be assessed against the abutting property only a proportion of the cost as was specified in the petition or in such 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.

"Sec. 19.12. 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 paving sidewalk, and storm sewer improvements shall not exceed 60 feet and shall be limited to residential uses, and the exemptions for water mains and sanitary sewers shall not exceed 150 feet for residential uses and 100 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.

"Sec. 19.13. Preliminary assessment roll. The city council shall cause to be prepared a preliminary assessment roll, on which shall be entered a brief description of each lot, the name or names of the owner or owner of each lot, as far as the same can be ascertained; provided, that a map of the improvements on which is shown 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 city council for the hearing of objections to the special assessments, such meeting to be not earlier than 10 days after the first publication, or from the date of posting of such notice. Any number of assessment rolls may be included in one notice. In any case where the preliminary notice was served or mailed, instead of being published, this notice need not be published or posted, but may be served or mailed. The serving or mailing of notices shall be completed not less than five days prior to the date fixed for the hearing of the assessment roll, and the return of the person serving or mailing the same shall, in the absence of fraud, be conclusive that the same was served or mailed.

"Sec. 19.14. Hearing, revision and confirmation of preliminary assessment roll; lien. At the time appointed for that purpose, or at some other time to which it may adjourn, the city 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 a railroad or 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 proper assessment. The council may thereupon confirm the assessment roll, and the assessment so confirmed shall be in proportion to the special benefits, except in the case of franchise obligations to railroads. Whenever the city council shall confirm assessments for local purposes, the city clerk shall enter on the council minutes and on the assessment roll the date, hour, and minute of confirmation the assessment 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-county tax collector.

"Sec. 19.15. 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 10 days after the confirmation of the assessment roll, give written notice to the city council that he takes an appeal to the Superior Court of New Hanover County, in which case he shall, within 20 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.

"Sec. 19.16. 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 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 10 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.

"Sec. 19.17. Reassessment. The city 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 make a reassessment. In such case there shall be included, as 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 proceedings shall, as far as practical, 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.

"Sec. 19.18. Publication of notice of confirmation of assessment roll. After the expiration of 20 days from the confirmation of assessment roll, the city clerk shall cause to be published one time in some newspaper published in the city, which is qualified to carry legal notices, or, if there be no such newspaper, shall cause to be posted in at least three public places therein a notice that any assessment contained in the assessment roll may be paid at any time before the expiration of 30 days from the date of publication or posting of notice, without interest from the date of 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 to be established by the city council not to exceed the legal rate authorized by the General Statutes of North Carolina, from the date of confirmation of the assessment roll.

"Sec. 19.19. Payment of assessments in cash or by installments. The property owner or railroad company assessed shall have the option of paying for improvements in cash or in not less than two, or more than 10 equal annual installments, as may be determined in the resolution ordering improvements. If paid in installments, installments shall bear interest at the rate to be established by the city council not to exceed the legal rate authorized by the General Statutes of North Carolina, from the date of confirmation of the assessment roll. If any assessment is not paid in cash, the first installment, with interest, shall become due and payable 30 days after the publication or posting of the notice of confirmation, and one subsequent installment and interest shall be due and payable on the same day of the same month in each successive year until the assessment is paid in full; provided, however, that if the city council shall so direct, 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 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.

"Sec. 19.20. 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 owned 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 New Hanover County. Collection of assessments with interest and penalties may also be made by the city of 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 payment of any installment. The payment of such installment, together with interest and penalties due thereon, before the lot or parcel of land, against which the same is a lien, is sold, or such lien is foreclosed, shall bar the right of the city to sell the land or to foreclose the lien by reason of default.

"Sec. 19.21. Assessment of cost of water mains and sewer extension. 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 such extension, or extensions, as, in the judgment of the city council, circumstances justify the assessment of the costs 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.

"Sec. 19.22. 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 city 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.

"Sec. 19.23. Effect of change of ownership on proceedings. 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 assessments made therefor as if there had been no change in ownership.

"Sec. 19.24. 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 persons

interested in the lot or parcel of land affected thereby shall be regarded as a substantial mistake or omission.

"Sec. 19.25. 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 assessment 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 such assessments in abeyance.

(b) All statutes of limitations, and particularly the statute of limitations provided for in Section 160-93 of the General Statutes of the State are hereby suspended during the time that any assessment is held in abeyance without the payment of interest as provided in subsection (a) of this section. 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 10 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 heretofore been barred by the statute of limitations.

"Sec. 19.26. If any lots or parcels of land abutting any local improvements are located outside the city limits, the city 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 connection 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 payments in lieu of assessments.

"Sec. 19.27. Procedure for street improvement and assessment of property abutting but located outside the city limits. In cases where the city limit line of the City of Wilmington runs along a street or road so that property on one side of the street or road lies within the corporate limits of the city, and the property on the other side of the street or road lies outside of such corporate limits, and a majority of all such property owners, owning a majority of the property abutting such street or road present a petition meeting the requirements of Article 10, Chapter 160A, of the General Statutes of North Carolina, requesting the improvement of such street or road, the city council may approve such petition, make the improvements requested, and assess the costs thereof against the property abutting both sides of such street or road in like manner, and to the same extent that it would be authorized to do if such street or road, and the property abutting thereon lay wholly within the corporate limits of the city.

"Sec. 19.28. Intervals of at least 10 years for permanent street improvements of particular property. Where permanent street improvements are made, the property bearing such assessments shall not be assessed for permanent street improvement again until after the expiration of 10 years from the date of the last preceding assessment.

"Sec. 19.29. Special procedure with regard to sidewalk and driveway repairs.

(1) It shall be the duty of every property owner in the City of Wilmington to maintain the sidewalks and driveways abutting his property in good repair and in safe condition.

(2) The entire cost of the repair or reconstruction of sidewalks and driveways shall be paid by the abutting property owner.

(3) When a sidewalk or driveway is found to be in poor repair and of unsafe condition, the city manager, through the city engineer, shall notify the abutting owner thereof, and in such notice direct the owner to make the repair specified in the notice within 30 days after such notice has been personally served upon or sent by registered mail to such owner at his last known address, or published once in a newspaper of general circulation in the City of Wilmington if the owner's address is unknown. The owner, upon the receipt of such notice, may appeal to the city council from the direction of the city manager, or his agent; provided, that such appeal is taken within the 30-day period during which the repair is required to be made; and in event of appeal, no repair of the property shall be required until the city council has heard and acted upon the appeal. If the property owner shall fail to appeal to the city council or fail to make the required improvement within the time set out in the notice, the city manager shall report such fact to the city council, and the city council may, by resolution, require the repair to be made and the cost thereof assessed against the abutting property, and such assessment shall constitute a lien upon the property superior to all other liens. Appeals to the superior court may be taken by any interested property owner within 30 days after the adoption of the resolution, but if no appeal is taken, the action of the city council shall be conclusive of the necessity of such repair.

If the cost of the improvement shall exceed one hundred dollars (\$100.00), assessment against abutting property shall be made and collected in the same manner that assessment would be made for local improvements as provided by Article 9, Chapter 160, of the General Statutes of North Carolina. If the cost of the repair shall be less than one hundred dollars (\$100.00), the assessment against abutting property shall be collected as taxes are collected and such assessments shall bear interest at the rate of six percent (6%) per annum from the date of the assessment until paid.

"Sec. 19.30. Grass plot 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.

"ARTICLE XX.

"Franchises.

"Sec. 20.1. Franchises for use of streets; limitation of period for which granted. No franchise for the use of streets, sidewalks, highways or other public property of the city shall be hereafter granted, extended or renewed for a longer period than 30 years.

"Sec. 20.2. Publication and reading of ordinance. No ordinance granting any franchise for the use of the streets, sidewalks, highways or other public property of the city shall be passed until the full text thereof shall have been published once in a newspaper published in the city, which is qualified to carry legal notices, at the expense of the applicant applying for such franchise, before the second reading of such ordinance. All such ordinances shall be read at three separate regular meetings of the city council and an 'aye' and 'nay' vote shall be taken and recorded on the second and third meetings. The rules shall not be suspended so as to pass any such ordinance in a shorter time.

"Sec. 20.3. Ordinance to provide reasonable time for completion of work. No ordinance granting any franchise for the use of the streets, sidewalks, highways or other public property of the city shall be passed unless some reasonable time limit shall be provided therein for the commencement and completion of the work authorized.

"Sec. 20.4. Terms and conditions of grant. The city council shall have the right to fix such terms and conditions upon which a franchise for the use of the streets, sidewalks, highways or other public property of the city shall be granted.

"Sec. 20.5. Franchise for construction of railroad on street conditioned on street maintenance. No franchise to construct and operate any railway upon any street in the city shall be granted except on the condition that the company owning and operating such railway shall keep up and maintain the street between and at least 18 inches on each side of every line of such railway and all space between tracks where such railway is double tracked.

"Sec. 20.6. Renewal of grants for construction or operation of utilities. The city council may, by ordinance and in the manner hereinbefore specified for granting franchises, renew any grant for the construction or operation of any utility not earlier than two years prior to its expiration, upon such terms as may be conducive to the public interest.

"Sec. 20.7. How franchises for occupation of streets construed. All franchises or privileges for the occupation of the streets shall be strictly construed in favor of the city and no franchise or privilege shall be held to have been granted unless granted in clear and unmistakable terms.

"Sec. 20.8. Grant or renewal of franchise, subject to certain rights of city. The grant of every franchise or privilege as well as the renewal of every franchise or privilege shall be subject to the right of the city, whether in terms reserved or not, to make all regulations which shall be necessary to secure in the most ample manner the safety, welfare and accommodation of the public, including among other things the right to enact and enforce ordinances to acquire proper and adequate extensions of service and to protect the public from danger and inconvenience in the operation of any work or business authorized by the grant of the franchise, and the right to make and enforce all such regulations as shall be necessary to secure adequate, sufficient and proper service and accommodations for the people, and to insure their comfort and convenience without discrimination.

"Sec. 20.9. Revocable permits for laying spur tracks. Revocable permits for laying spur tracks across or along streets and public places to connect any steam, electric or

other railroad with any warehouse, factory or other establishment needing switching facilities shall not be considered to be franchises, as that term is used in this charter, but such permits may be granted and revoked by the city council from time to time, in accordance with such terms and conditions as may be prescribed by general ordinance.

"Sec. 20.10. Grant for extension of public utilities. The city council may by ordinance grant to any individual, company or corporation operating a public utility or quasi-public utility the right to extend the appliances and service of such utility. All such extensions shall become a part of the aggregate property of the utility and shall be subject to all the obligations and reserved rights in favor of the city applicable to the property of the utility by virtue of the ordinance providing for its construction and operation. The right to use and maintain any such extension shall expire with the original grant of the utility to which the extension was made, or any renewal thereof.

"Sec. 20.11. Prohibition of exclusive or perpetual grants. No right to construct, maintain or operate any public utility in the City of Wilmington shall be exclusive or perpetual.

"ARTICLE XXI.

"Parks, Public Buildings and other Public Property.

"Sec. 21.1. Vesting of title. Except as otherwise provided in this charter, the title to all parks, public buildings and other public property belonging to the city shall vest in the city.

"Sec. 21.2. Control and custody. All parks, public buildings and other public property belonging to the city shall be under the control and in the custody of the city council.

"Sec. 21.3. Use and regulation. The city council shall have power to pass proper ordinances for the regulation and management of all parks within the corporate limits of the city and the use of such parks by the public.

"Sec. 21.4. Officers responsible. Such officials, servants and agents as shall be needed to care for, manage and look after the parks, public buildings and other public property belonging to the city shall be appointed and their terms of office and compensation fixed as elsewhere provided in this charter.

"Sec. 21.5. Control of trees on public property. The city council shall have exclusive control of all trees upon the streets or public property of the city.

"ARTICLE XXII.

"Community Planning and Development Commission.

"Sec. 22.1. Authority to create commission. For the purpose of promoting the orderly growth, expansion and development of the City of Wilmington and its environs and for the purpose of promoting the health, safety, morals and general welfare of the citizens of Wilmington and its environs, the city council is hereby authorized to establish a community planning and development commission, as provided for in G.S. 160A-360 through G.S. 160A-366.

"Sec. 22.2. Joint planning board. In lieu of a community planning and development commission the governing body of the City of Wilmington may enter into agreements with the governing body of any other city, town or county for the establishment of a joint planning board.

The joint planning board shall be established in accordance with General Statutes of North Carolina, Chapter 160A, Article 20, Part 1.

An ordinance and resolution passed by the governing bodies which are to be members of a joint planning board shall establish: The name of the joint planning board; duties; qualification for membership; term of office; organization; officers; rules; meeting times; and other details necessary to fulfill its duties.

"Sec. 22.3. Meetings to be public. Any and all meetings of the planning and development commission or any joint planning board established pursuant to the authority granted herein shall be open to the general public and no executive or secret sessions shall be permitted at any time.

"ARTICLE XXIII.

"Planning authority and building regulations.

"Sec. 23.1. Planning authority within the corporate limits any planning, zoning, subdivision, building, or other regulatory powers which may now or hereafter be conferred by law upon municipalities and their governing bodies or specifically conferred by law upon the City of Wilmington by special act or amendment to this charter.

"Sec. 23.2. Extraterritorial planning authority. The City Council of the City of Wilmington is hereby authorized to exercise any planning, zoning, subdivision, building, or other regulatory power which may now or hereafter be conferred upon the City of Wilmington and vested in the city council by this charter, the General Statutes of North Carolina, or any other law applicable to the City of Wilmington not only within the corporate limits of the city but also within the territory beyond the corporate limits as now or hereafter fixed in accordance with the General Statutes. Such powers may be exercised to the same extent and according to the same procedures as are applicable to the exercise of planning, zoning, subdivision, or building regulation powers within the corporate limits of the city.

"Sec. 23.3. Enlarged board of adjustment. At the time the City Council of the City of Wilmington adopts a zoning ordinance regulating the area outside of and beyond the corporate limits of the city, an enlarged board of adjustment shall by ordinance be created by the city council. The enlarged board of adjustment shall consist of six members, three of whom shall be residents of the area outside the corporate limits and the city's extraterritorial jurisdiction. At the time of their appointment, members of the enlarged board of adjustment shall hold no other elected or appointed office with the city or county government.

The three members representing the City of Wilmington shall be appointed by the city council for three-year terms. Provided, that of the members first appointed two members shall be appointed to serve terms of three years and one member a term of two years. The three members representing the area outside the city and within the city's extraterritorial jurisdiction shall be appointed by the Board of Commissioners of New Hanover County for three-year terms, provided that of the members first appointed two members shall be appointed to serve terms of two years and one member a term of three years. Thereafter, all members of the commission shall be appointed to serve three-year terms. The terms of the members first appointed shall begin at the time of the first

meeting of the board of adjustment after their appointment. A vacancy occurring in the membership of the board of adjustment shall be filled for the unexpired term in the same manner as set forth herein for other appointments. All members of the board of adjustment shall have equal rights, privileges, and duties. The concurring vote of five members of such enlarged board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of ordinances or regulations within the area wherein the enlarged board of adjustment has jurisdiction.

In the event the County Board of Commissioners of New Hanover County fails or refuses to make appointments to the enlarged board of adjustment as required by this section, the City Council of the City of Wilmington is hereby authorized to appoint those members to such board which the county board of commissioners failed or refused to appoint and such members so appointed shall have all the privileges, rights, and duties as other members of the board.

"Sec. 23.4. Extraterritorial building regulation authority. In addition to all other power and authority granted to the City Council of the City of Wilmington elsewhere in this charter, the city council is hereby authorized to adopt and enforce outside the corporate limits and within the extraterritorial jurisdiction of the city such building, plumbing, heating, or electrical regulations as the council is now or may hereafter be authorized to adopt within the city. In exercising this authority and in order to enforce the provisions of any building or other regulation herein authorized, the city may by ordinance require that prior to the beginning of any construction, reconstruction, or alteration of any building or structure, or for plumbing, heating, or electrical installations that a permit or permits shall be obtained therefor from the building inspector or administrative official of the City of Wilmington.

"Sec. 23.5. Extraterritorial enforcement authority. The City Council of the City of Wilmington is hereby authorized and empowered to enforce any regulations adopted by ordinance pursuant to the authority granted by this act within the area outside the corporate limits as may now or hereafter be fixed in accordance with the General Statutes in the same manner as the city may now or hereafter be authorized to enforce such ordinance or regulation within the corporate limits of the city. This authority shall include the authority to require permit prior to the construction, reconstruction or alteration of any building or structure and to fix a schedule of fees therefor. The building inspector is the administrative officer designated by the city council to enforce any ordinance or regulation outside the corporate limits. He shall have the same power and authority in the performance of this duty outside the city that he may now or hereafter be vested with in the performance of this same duty within the corporate limits of the city.

"ARTICLE XXIV.

"Construction Requirements.

"Sec. 24.1. Inspection of buildings in course of erection or alteration. Subject to the provisions of this charter, provision shall be made for the inspection, by the city manager or his deputies, of all buildings which may be in course of erection or alteration, according to the building ordinances of the city.

"Sec. 24.2. Reports of condition of buildings in course of erection or alteration. Reports of the condition of buildings in the course of construction or alteration shall be made and kept by the city manager.

"Sec. 24.3. Supervision and inspection of electrical work and appliances. All electrical works and appliances used and intended for the use of manufacturing, supplying or receiving electricity within the city either for light, heat, power, telephone, telegraph or signaling systems shall be supervised and inspected.

"Sec. 24.4. Inspection of plumbing work, water fixtures and sewer connection. All plumbing work, water fixtures and sewer connections shall also be inspected and required to conform to the city ordinances.

"Sec. 24.5. Authority of city council to adopt technical codes by reference. The city council be and it is hereby authorized to adopt building codes, gas codes, heating codes, electrical codes and fire prevention codes by reference rather than by printing the entire code into the ordinance adopting the code.

"ARTICLE XXV.

"Police.

"Sec. 25.1. Appointment of officials for exercise of police power. The police powers of the city shall be exercised by such officials as may be appointed in accordance with this charter.

"Sec. 25.2. Execution of process by persons exercising police power. Persons exercising police power shall execute all processes directed to them by the mayor or the recorder or other lawful officer and shall have the same power in regard thereto as sheriffs.

"Sec. 25.3. Service of civil process by policemen. Policemen may serve all civil process or notice that may be directed to them by any court, and any notice directed to them by the mayor, under the same regulations and penalties as are or may be prescribed by law in the case of sheriffs.

"Sec. 25.4. Persons exercising police power to have power and authority of sheriffs. Persons exercising the police powers shall have all the power and authority now or which may hereafter be vested in sheriffs for the preservation of the peace of the city by suppressing disturbances and arresting offenders.

"Sec. 25.5. Oath of members of force. The members of the police force shall take oath before some person authorized to administer oaths for the faithful performance of their duties imposed by law and the ordinances of the city.

"Sec. 25.6. Bonds of officers and members of force. Such officers and members of the police force as the city manager may designate shall give bond for the faithful accounting of all moneys that may come into their hands by virtue of their office.

"ARTICLE XXVI.

"Fire Protection.

"Sec. 26.1. Council to provide for protection against fire. Authority is hereby conferred, subject to the provisions of this charter, upon the city council, to make provisions for the protection of the lives and property of the people against loss or damage by fire.

"Sec. 26.2. Destruction of houses to prevent spread of fire. In case of fire the city manager, or the person exercising the duties of chief of the fire department may order the blowing up, pulling down, or the destruction of any house in his judgment necessary for the prevention of the spread of fire and no person shall be held civilly or criminally liable for giving or obeying such order.

"Sec. 26.3. Power of firemen to arrest during fires. Persons exercising the duties of firemen shall have power and are hereby authorized to make arrests during fires for interference with or obstruction of their operations.

"Sec. 26.4. Interference with firemen. Any interference with the operations of the firemen in the discharge of their duty or any of the apparatus of the fire department shall be unlawful.

"ARTICLE XXVII.

"Traffic Control.

"Sec. 27.1. Location of traffic control devices. The city council may authorize an official to designate the location of official traffic control devices, upon a determination by him:

(a) If such a device is to be installed at a particular location, that its installation is necessary in order to control traffic congestion in the interest of public safety:

(b) 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 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.

"ARTICLE XXVIII.

"Refuse, Weeds, and Trash.

"Sec. 28.1. Property kept free of offensive matter. It shall be the duty of every property owner in the city to keep his property free from noxious weeds, trash, and all other forms of offensive animal or vegetable matter or refuse which may be dangerous or prejudicial to the public health or which may constitute a public nuisance.

"Sec. 28.2. Removal of offensive matter; charges a lien. The city council may by ordinance establish a procedure whereby city forces may clean, cut, and remove any weeds, trash, refuse, or other offensive matter from any property upon failure of the owner or occupant after 10 days' notice to do so. In such event, the cost of such cleaning, cutting, and removal shall become a lien upon the particular property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the city or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs, and penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes.

"ARTICLE XXIX.

"Claims Against the City.

"Sec. 29.1. Notice prerequisite to action for personal injury. No action for damages against the City of Wilmington for personal injury shall be instituted against the city unless within six months after the happening or infliction of the injury complained of,

the complainant, his executors or administrators, shall have given notice to the city council of such injury, in writing, stating in such notice the date and place of happening or infliction of such injury, the manner of such infliction, the general nature of the injury, and the amount of damages claimed therefor; but this shall not prevent any time of limitation prescribed by law for commencing to run at the date of the happening or infliction of such injury, or in any manner interfere with its running.

"Sec. 29.2. Notice prerequisite to action for property damage. No action for damages against the city for any character whatever to property shall be instituted against the city unless within six months after the happening or infliction of the injury complained of, the complainant, his executors or administrators, shall have given notice to the city council of such injury, in writing, stating in such notice to the city council of such injury, in writing, stating in such notice the date and place of happening or infliction of such injury and the manner of such infliction, the character of the injury, and the amount of damages claimed therefor; but this shall not prevent any time of limitation prescribed by law from commencing to run at the date of happening or infliction of such injury or in any manner interfere with its running.

"Sec. 29.3. Settlement of claims by city manager. The city manager may settle claims against the city for (1) personal injury or 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 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."

Sec. 2. Purpose of this act. The purpose of this act is to revise and reorganize the Charter of the City of Wilmington and to consolidate into it certain local acts concerning the property, affairs and government of the city. Unless expressly indicated to the contrary in the following section of this act, it is not the intention to repeal but rather to reenact with or without amendments and additions, as the case may be, and to continue in force without interruption the provisions of such charter so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. Effect of this act – on other acts. This act shall not be deemed to repeal, modify, nor in any manner to affect any of the following acts, or amendments thereto, whether or not such acts or amendments are not expressly set forth herein, except insofar as the same may be in conflict with the provisions of this act:

- (1) Session Laws 1959, Chapter 89
- (2) Session Laws 1959, Chapter 427
- (3) Session Laws 1959, Chapter 648
- (4) Session Laws 1959, Chapter 1044
- (5) Session Laws 1959, Chapter 1047

- (6) Session Laws 1959, Chapter 1048
- (7) Session Laws 1957, Chapter 29
- (8) Session Laws 1957, Chapter 460
- (9) Session Laws 1957, Chapter 470
- (10) Session Laws 1957, Chapter 602
- (11) Session Laws 1957, Chapter 615
- (12) Session Laws 1957, Chapter 1098
- (13) Session Laws 1955, Chapter 426
- (14) Session Laws 1955, Chapter 1009
- (15) Session Laws 1955, Chapter 1356
- (16) Session Laws 1953, Chapter 69
- (17) Session Laws 1953, Chapter 321
- (18) Session Laws 1953, Chapter 553
- (19) Session Laws 1953, Chapter 554
- (20) Session Laws 1953, Chapter 581
- (21) Session Laws 1953, Chapter 614
- (22) Session Laws 1953, Chapter 676
- (23) Session Laws 1951, Chapter 474
- (24) Session Laws 1951, Chapter 880
- (25) Session Laws 1951, Chapter 881
- (26) Session Laws 1951, Chapter 906
- (27) Session Laws 1951, Chapter 918
- (28) Session Laws 1951, Chapter 973
- (29) Session Laws 1951, Chapter 1124
- (30) Session Laws 1951, Chapter 1175
- (31) Session Laws 1951, Chapter 1225
- (32) Session Laws 1949, Chapter 395
- (33) Session Laws 1949, Chapter 684
- (34) Session Laws 1949, Chapter 687
- (35) Session Laws 1949, Chapter 780
- (36) Session Laws 1949, Chapter 1254
- (37) Session Laws 1947, Chapter 479
- (38) Session Laws 1947, Chapter 691
- (39) Session Laws 1947, Chapter 768
- (40) Session Laws 1947, Chapter 883
- (41) Session Laws 1945, Chapter 188
- (42) Session Laws 1945, Chapter 374
- (43) Session Laws 1945, Chapter 453
- (44) Session Laws 1945, Chapter 456
- (45) Session Laws 1945, Chapter 587
- (46) Session Laws 1945, Chapter 602
- (47) Session Laws 1945, Chapter 684
- (48) Session Laws 1945, Chapter 841
- (49) Session Laws 1945, Chapter 858

- (50) Session Laws 1945, Chapter 921
- (51) Session Laws 1943 Chapter 258
- (52) Session Laws 1943, Chapter 544
- (53) Session Laws 1943, Chapter 563
- (54) Session Laws 1943, Chapter 618
- (55) Session Laws 1943, Chapter 685
- (56) Session Laws 1943, Chapter 708
- (57) Public-Local Laws 1941, Chapter 476
- (58) Public-Local Laws 1941, Chapter 223
- (59) Public-Local Laws 1941, Chapter 364
- (60) Private Laws 1941, Chapter 17
- (61) Public-Local Laws 1941, Chapter 50
- (62) Public-Local Laws 1941, Chapter 179
- (63) Public-Local Laws 1941, Chapter 96
- (64) Public-Local Laws 1941, Chapter 272
- (65) Public-Local Laws 1941, Chapter 1
- (66) Private Laws, 1941, Chapter 10
- (67) Public-Local Laws 1941, Chapter 441
- (68) Public-Local Laws 1939, Chapter 224
- (69) Public-Local Laws 1939, Chapter 268
- (70) Public-Local Laws 1939, Chapter 324
- (71) Public-Local Laws 1939, Chapter 470
- (72) Public-Local Laws 1939, Chapter 513
- (73) Public-Local Laws 1939, Chapter 520
- (74) Public-Local Laws 1939, Chapter 521
- (75) Public-Local Laws 1939, Chapter 616
- (76) Public-Local Laws 1937, Chapter 8
- (77) Public-Local Laws 1937, Chapter 70
- (78) Public-Local Laws 1937, Chapter 447
- (79) Public-Local Laws 1937, Chapter 471
- (80) Public-Local Laws 1937, Chapter 483
- (81) Private Laws 1937, Chapter 26
- (82) Private Laws 1937, Chapter 31
- (83) Public-Local Laws 1935, Chapter 316
- (84) Public-Local Laws 1935, Chapter 310
- (85) Public-Local Laws 1935, Chapter 170
- (86) Public-Local Laws 1935, Chapter 73
- (87) Public-Local Laws 1935, Chapter 510
- (88) Public-Local Laws 1935, Chapter 352
- (89) Public-Local Laws 1935, Chapter 42
- (90) Public-Local Laws 1935, Chapter 503
- (91) Public-Local Laws 1935, Chapter 407
- (92) Public-Local Laws 1935, Chapter 389
- (93) Public-Local Laws 1935, Chapter 390

- (94) Private Laws 1935, Chapter 209
- (95) Private Laws 1935, Chapter 97
- (96) Private Laws 1935, Chapter 179
- (97) Private Laws 1935, Chapter 246
- (98) Private Laws 1935, Chapter 15
- (99) Private Laws 1935, Chapter 42
- (100) Public-Local Laws 1933, Chapter 191
- (101) Public-Local Laws 1933, Chapter 94
- (102) Private Laws 1933, Chapter 193
- (103) Private Laws 1933, Chapter 167
- (104) Private Laws 1931, Chapter 136
- (105) Private Laws 1931, Chapter 180
- (106) Private Laws 1931, Chapter 176
- (107) Private Laws 1931, Chapter 17
- (108) Private Laws 1931, Chapter 179
- (109) Public-Local Laws 1929, Chapter 353
- (110) Private Laws 1929, Chapter 136
- (111) Public-Local Laws 1927, Chapter 110
- (112) Public-Local Laws 1925, Chapter 302
- (113) Private Laws 1925, Chapter 118
- (114) Private Laws 1925, Chapter 119
- (115) Private Laws 1925, Chapter 176
- (116) Private Laws 1925, Chapter 168
- (117) Private Laws 1925, Chapter 9
- (118) Public-Local Laws 1924, Chapter 135
- (119) Public-Local Laws 1924, Chapter 190
- (120) Private Laws 1924, Chapter 45
- (121) Public-Local Laws 1923, Chapter 85
- (122) Public-Local Laws 1923, Chapter 252
- (123) Private Laws 1923, Chapter 224
- (124) Private Laws 1923, Chapter 137
- (125) Private Laws 1923, Chapter 189
- (126) Private Laws 1923, Chapter 226
- (127) Private Laws 1923, Chapter 214
- (128) Private Laws 1923, Chapter 192
- (129) Private Laws 1923, Chapter 118
- (130) Private Laws 1923, Chapter 228
- (131) Private Laws, Extra Session 1921, Chapter 4
- (132) Private Laws, Extra Session 1921, Chapter 5
- (133) Private Laws, Extra Session 1921, Chapter 73
- (134) Private Laws, Extra Session 1921, Chapter 69
- (135) Private Laws, Extra Session 1921, Chapter 148
- (136) Private Laws 1921, Chapter 5
- (137) Private Laws 1921, Chapter 2

(138)	Private Laws 1921, Chapter 215
(139)	Private Laws 1921, Chapter 157
(140)	Private Laws 1921, Chapter 57
(141)	Private Laws 1921, Chapter 209
(142)	Private Laws 1921, Chapter 153
(143)	Private Laws 1919, Chapter 141
(144)	Private Laws 1919, Chapter 152
(145)	Private Laws 1919, Chapter 154
(146)	Private Laws 1919, Chapter 162
(147)	Private Laws 1919 Chapter 157
(148)	Private Laws 1919, Chapter 159
(149)	Private Laws 1919, Chapter 164
(150)	Private Laws 1919, Chapter 1
(151)	Private Laws 1919, Chapter 149
(152)	Private Laws 1915, Chapter 148
(153)	Private Laws 1915, Chapter 27
(154)	Public-Local Laws 1913, Chapter 316
(154a)	Private Laws, Extra Session 1913, Chapter 236
(155)	Private Laws 1913, Chapter 473
(156)	Private Laws 1913, Chapter 381
(157)	Private Laws 1913, Chapter 355
(158)	Private Laws 1911, Chapter 191
(159)	Private Laws 1911, Chapter 461
(160)	Private Laws 1911, Chapter 169
(161)	Private Laws 1911, Chapter 184
(162)	Private Laws 1911, Chapter 75
(163)	Private Laws 1911, Chapter 257

Sec. 4. Effects of this act - generally. (a) All existing city ordinances and resolutions, and all existing rules and regulations of 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) All contracts, orders, leases, bonds, and other obligations or instruments entered into by the city or for its benefits prior to the effective date of this act shall continue in full force and effect. Public improvements initiated prior to such date may be carried to completion in accordance with existing laws or with the provisions of this act.

(c) 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 or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

(d) Nothing in this act, except as otherwise specifically provided, shall impair the rights of those who are city officers or employees upon its effective date. All persons then holding city offices or positions shall continue therein and in the

performance of their duties until provision shall have been made for the performance of such duties or the discontinuance of their offices or positions.

(e) Any office, position, department, or agency provided for in this act with a name or with powers and duties the same or substantially the same as those heretofore existing shall be deemed to be a continuation thereof. Any provisions of any law, ordinance, resolution, regulation, rule, contract, grant, or other document relating to such a formerly existing office, position, department, or agency provided for in this act with a name or with powers and duties the same or substantially the same as those heretofore existing, so far as not inconsistent with this act, shall apply to those provided for in this act.

(f) All extensions and purported extensions of the corporate limits of the City of Wilmington are hereby declared to be valid.

(g) All proceedings of the City Council of the City of Wilmington relating to local improvements, all work carried out according to such proceedings, and all assessments based thereon, are hereby declared to be valid.

Sec. 5. 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 the 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. 6. Chapter 1046, Session Laws of 1963, is hereby repealed.

Sec. 7. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.