

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**SESSION LAW 2003-327
HOUSE BILL 313**

AN ACT TO CONSOLIDATE AND REVISE THE CHARTER OF THE CITY OF
ROCKY MOUNT.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Rocky Mount is revised and consolidated to read as follows:

"CHARTER OF THE CITY OF ROCKY MOUNT.

"CHAPTER I.

"GENERAL PROVISIONS.

"Section 1. **Definitions.** As used in this Charter, the following words are hereby defined to mean as set forth, unless otherwise clearly required by the context:

- (a) City. The word "City" shall mean the City of Rocky Mount.
- (b) City Council. The words "City Council" shall mean the City Council of the City of Rocky Mount.

"CHAPTER II.

"ORGANIZATION AND POWERS.

"ARTICLE I. CITY BOUNDARIES.

"Section 2. **Existing City Boundaries.** The boundaries of the City shall be those existing at the time of the effective date of this Charter until modified in accordance with law.

"Section 3. **Wards.** The City shall be divided into seven single-member electoral districts (referred to in this Charter as "wards"), each ward representing the same number of persons as nearly as possible. The City Council shall have the authority to revise the ward boundaries for the purposes of:

- (1) Accounting for territory annexed to or excluded from the City; and
- (2) Correcting population imbalances between the wards shown by a new federal census or caused by exclusions or annexations.

Changes in the ward boundaries shall be made by a five-sevenths vote of all the members of the City Council.

"ARTICLE II. CORPORATE POWERS.

"Section 10. **General Rights and Powers.** The inhabitants of the City are a body corporate and politic under the name City of Rocky Mount. The City has all of the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the Constitution of North Carolina and the General Statutes of North Carolina. In addition to the powers conferred as stated above, the City shall possess the following powers and authority:

- (1) To regulate or prohibit the sale, use, and storage of gunpowder, dynamite, gasoline, naphtha, and all other dangerous, explosive or combustible substances within the corporate limits of the City, or within one mile thereof; to regulate or prohibit the discharge of firearms or the firing or setting off of fireworks or other explosives within such corporate limits or within one mile thereof.
- (2) To regulate or prohibit all sports, theatrical exhibitions, agricultural or other fairs, circuses, tent revivals, and other public performances and exhibitions within the corporate limits of the City.

- (3) To regulate public ways as follows: No person (natural or corporate) or combination or association of any such persons shall use the public streets, street rights-of-way, or alleys of the City for nonstreet or nonvehicular purposes, except upon the grant of a franchise, license, or easement by the City Council.
- (4) To promote the right of gainful employment, industrial and commercial opportunities, and general welfare of the inhabitants of the City, either directly or through such instrumentalities or agencies as exist or may exist (including the City of Rocky Mount Business Development Authority) for the public purpose of alleviating unemployment with its resulting spread of indigence and economic stagnation, by fostering and promoting business and industry, and developing commerce and trade, and inducing the location of manufacturing, industrial and commercial enterprises in or about the City by advertising, establishing industrial parks, extending electric, natural gas, and water and sewer lines, and by acquiring real and personal property, owning, improving, equipping, and maintaining the same, and selling, leasing, exchanging, and conveying such property in furtherance of any such purposes.
- (5) To regulate or prohibit junkyards and other places where junked automobiles, scrap metal, and other junk are dismantled or stored within the corporate limits of the City or within two miles thereof.
- (6) To regulate or prohibit boxing and wrestling matches or exhibitions.
- (7) To do any and all things as are deemed by the City Council necessary and requisite to establish, promote, advance, and maintain the general welfare, culture, and economy of the City, its environs and inhabitants.
- (8) To regulate and control by ordinance the use of all lands owned by the City and any waters covering such lands either within or without the corporate limits, including, but not limited to, use by the public of any body of water covering lands owned by the City, wherever the same may be located.

"Section 11. **Form of Government.** The City shall operate under the council-manager form of government as provided in G.S. 160A-147, et seq.

"ARTICLE III. AMENDMENTS.

"Section 21. **How Charter Amended.** The Charter shall be amended only by an act of the General Assembly of North Carolina or as otherwise provided by law.

"CHAPTER III.

"GOVERNING BODY.

"ARTICLE I. CITY COUNCIL.

"Section 31. **Composition.** The City Council shall consist of seven members. One Council member shall be apportioned to each of the respective wards of the City. The qualified voters of each ward shall elect a Council member for the seat apportioned to that ward.

"Section 32. **City Council Members; Terms; Qualifications; Vacancies.**

(a) **Terms of Office.** Council members shall serve staggered terms of four years and until their successors are duly elected and qualified. The terms of the Council members in office on the effective date of this Charter shall not be affected by the adoption of this Charter.

(b) **Qualifications.** No person shall be eligible to file for, or be elected to, the City Council, or to serve thereon, unless such person is a qualified voter, 21 years of age, a resident of the City and of the ward from which he seeks to be elected, and has not been disqualified as provided in the Constitution of North Carolina.

(c) **Change of Residence.** If any elected Council member shall cease to reside in the ward from which elected, such Council member shall thereafter be disqualified from serving as a Council member from such ward, and the City Council shall name a

successor; however, the provisions of this subsection shall not apply in the event of changes in the ward boundaries. Any Council member who becomes a resident of a different ward as a result of a relocation of boundaries shall continue to represent the ward from which elected until the expiration of the term for which he was elected.

"Section 33. Organization, Powers, and Procedures of City Council Members.

(a) Oath. Any Council member-elect who shall not be present at the organizational meeting of the City Council may take the oath of office at any time thereafter.

(b) Other Powers and Procedures. Except as otherwise specifically provided by this Charter, the City Council shall have authority to adopt rules of procedure and generally regulate the manner and method of the exercise of its powers. All meetings shall be held within the City of Rocky Mount, except in case of an emergency. If the City Council deems it desirable to hold a joint meeting with the governing body of another municipality or political subdivision of the State of North Carolina, the City Council may at its election, meet with the other governing body at a designated place, within the area subject to the jurisdiction of the other governing body.

"Section 34. Quorum, Votes, Attendance of Council Members.

(a) Quorum; Attendance. A majority of the members elected to the City 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 by ordering them to be taken into custody.

(b) Ordinances. All ordinances offered for adoption shall be in writing, and no ordinance shall be passed finally on the date on which it is introduced unless by a vote of five-sevenths of the entire membership of the City Council or the unanimous consent of those present whenever there are less than five-sevenths of the membership present.

(c) Votes. All final votes of the City Council involving the making of assessments or levying of taxes, and all votes where requested by a Council member, shall be by roll call. The Mayor shall announce the result of each vote of the Council.

"Section 35. Ordinances, Rules and Regulations. In addition to the other powers conferred upon it by this Charter, the City Council may adopt and provide for the execution of such ordinances, rules and regulations not inconsistent with law, as may be necessary or appropriate for the preservation and promotion of the comfort, culture, economy, convenience, good order, better government, and general welfare of the City and its inhabitants.

"Section 36. Removal of Council Members. The City Council shall have the power on the vote of five-sevenths of its members to remove any one of its members for misfeasance, malfeasance, or nonfeasance of office, after a hearing of the matter before the City Council, at which time the subject of such hearing may be present and represented by counsel. Notice of such hearing shall be served on the subject thereof at least two weeks in advance of the hearing in person, if possible, and if not possible, by publication.

"ARTICLE II. MAYOR.

"Section 61. Qualifications and Term of Office.

(a) Term of Office. The Mayor shall serve a term of four years and until a successor is duly elected and qualified. The term of the Mayor in office on the effective date of this Charter shall not be affected by the adoption of this Charter.

(b) Qualifications. No person shall be eligible to be elected Mayor, or to serve as Mayor, unless such person is a qualified voter, 21 years of age, a resident of the City, and has not been disqualified as provided in the Constitution of North Carolina.

"ARTICLE III. CITY MANAGER.

"Section 81. Appointment; Duties; Removal.

(a) Appointment; Removal. The City Council shall appoint the City Manager, who shall be the administrative head of the City government and shall serve at the pleasure of the Council. In the event of removal, the City Manager may demand and shall be entitled to a public hearing thereon before the City Council prior to the date on

which his final removal shall take effect and may there be represented by counsel; but the decision of the Council shall be final, and pending such hearing, the Council may suspend the City Manager from duty.

(b) **Administrative Service.** Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service of the City through the City Manager. No member of the City Council shall give orders to or attempt to influence the action of any subordinate of the City Manager either publicly or privately. Where this Charter or any ordinance or statute gives to the City Manager the power to appoint or to employ persons in the administrative service of the City, neither the City Council nor any of its members shall attempt to in any manner influence the City Manager in the appointment or employment of any such person or persons. The City Manager shall have the power to suspend and dismiss any person appointed, and such action in every case shall be final.

(c) **General Authority and Duties.** The City Manager shall, except when clearly inconsistent with the provisions of this Charter, exercise supervision and control over all departments and divisions of the City. The City Manager shall keep the City Council at all times advised as to the conditions and efficiency of the various departments of the City under said City Manager's direction and control and of the needs and conditions of the City. The City Manager shall perform such other duties as may be prescribed by this Charter or be required by ordinance or resolution of the City Council.

"ARTICLE IV. CITY ATTORNEY.

"Section 90. **Appointment.** The City Council shall appoint an attorney or firm of attorneys to serve as City Attorney. The City Attorney shall be the City's legal advisor and shall hold office at the pleasure of the City Council.

"Section 91. **Other Attorneys.** The City Council or City Manager may employ such other attorneys as they deem advisable.

"ARTICLE V. CITY CLERK.

"Section 100. **Appointment; Powers and Duties.** The City Council shall appoint a City Clerk who shall hold office at the pleasure of the City Council. The City Clerk shall be the custodian of all records, documents, papers, and other articles committed to the office and shall surrender the same to any successor. The City Clerk shall be the custodian of the common seal of the City and shall attest the execution of and affix the common seal to all legal documents executed by the Mayor in behalf of the City and shall perform any other duties as may be prescribed by law or assigned by the Council.

"ARTICLE VI. CITY TREASURER.

"Section 110. **Appointment; Powers and Duties.** The City Council shall appoint from its membership a City Treasurer who shall hold office at the pleasure of the Council. All notes, bonds, or other evidences of indebtedness of the City shall bear the City Treasurer's signature, which, when authorized by the City Treasurer in writing, may also be by facsimile signatures.

"CHAPTER IV.

"POLICE DEPARTMENT.

"Section 140. **Appointment, Powers and Duties of Chief of Police and Police Officers.**

(a) **Chief.** The City Manager shall appoint the Chief of Police. The Chief of Police shall have immediate direction and control of the Police Department, subject to the supervision of the City Manager, and to such rules, regulations, and orders as the City Manager may prescribe.

(b) **General Powers.** The Chief of Police and each member of the police force shall have, for the purpose of enforcing City ordinances and regulations, or preserving the peace of the City, and of suppressing disturbances, and apprehending offenders, the powers of peace officers vested in sheriffs and constables.

(c) **Public Peace.** The Chief of Police and other police officers of the City shall have the power, and it shall be their duty, to suppress all breaches of the public peace, and all disturbances of the quiet and good order of the City, and they may, with or

without warrant, arrest, anywhere within the corporate limits of the City, or within one mile thereof, any person charged with the violation of any ordinance of the City, or with any other offense whatsoever against the public peace, and the quiet and good order of the community.

(d) **Other Duties.** In addition to the foregoing, the Chief of Police and other police officers shall perform such other duties as may from time to time be prescribed by the City Manager not inconsistent with the Constitution and laws of the State of North Carolina and the provisions of this Charter.

"Section 141. **Police Emergency Lines.** The Chief of Police or other police officer in charge at the scene of a parade, accident, disturbance, crime scene, natural or artificial disaster, or emergency, or any large gathering of people shall have authority to provide barricades, ropes, signs, or other means of restraint, and it shall be unlawful for any person other than a law enforcement officer, firefighter, or other person having official business at the scene to cross such a line without express permission of the police officer at the scene.

"CHAPTER V.

"FIRE DEPARTMENT.

"Section 150. **Appointment, Powers and Duties of Fire Chief.**

(a) **Appointment; General Authority.** The City Manager shall appoint a Fire Chief. The Fire Chief shall have immediate direction and control of the Fire Department, subject to the supervision of the City Manager and to such rules, regulations, and orders as the City Manager may prescribe.

(b) **Destroying Property at Fires.** The Fire Chief, and in the Fire Chief's absence, any assistant, may order the blowing up, tearing down, or other destruction of any building when it is deemed necessary to stop the progress of a fire. No person shall be held liable, civilly or criminally, for acting in obedience to their orders, nor shall the Fire Chief or any assistant, the City, the Mayor, the City Manager, or the City Council be held liable, civilly or criminally, for the giving of such orders or for damages to property ordered destroyed.

(c) **Fire, etc., Emergency Lines.** The Chief of Police or other police officer, or the Fire Chief or any assistant, in charge at the scene of a fire, accident, disturbance, natural or artificial disaster or emergency, or any large gathering of people, shall have authority to provide barricades, ropes, signs, or other means of restraint, and it shall be unlawful for any person other than a law enforcement officer, firefighter, or other person having official business at the scene to cross such a line without express permission of the person in charge at the scene.

(d) **Other Duties.** The Fire Chief and other firefighters shall perform such other duties in addition to those provided in this Charter as may be prescribed by law or City ordinances, or that may from time to time be prescribed by the City Manager.

"CHAPTER VI.

"AUXILIARY POLICE OFFICERS AND FIREFIGHTERS.

"Section 160. **Authorized.** The City Council may provide for the organization, recruiting, training, equipping, and appointing of auxiliary police officers and auxiliary firefighters for the City.

"Section 161. **Civil Liability.** The City shall be entitled to the same immunities with respect to the action of auxiliary police officers and auxiliary firefighters in the performance of their duties or training or otherwise, to which it is entitled with respect to the actions of regular City police officers and firefighters in the performance of their duties.

"CHAPTER VII.

"SPECIAL PROCEDURES AND REGULATIONS.

"ARTICLE I. EMINENT DOMAIN.

"Section 360. **Condemnation Procedure.**

(a) **Generally.** The City shall possess the power of eminent domain and may acquire, either by purchase, gift, or condemnation, any real estate, right of access,

right-of-way, water right, privilege, easement, restrictive covenant, or any other interest in or relating to real estate, water or improvements, either within or without the City limits, for any lawful public use or purpose. In the exercise of the power of eminent domain, the City is hereby vested with all power and authority now or hereafter granted by the laws of North Carolina applicable to the City, and the City shall follow the procedures now or hereafter prescribed by such laws; provided that, notwithstanding the provisions of G.S. 160A-240.1 and G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property or any interest in property to be used for streets and highways; water supply and distribution systems; sewage collection and disposal systems; electric power generation, transmission and distribution systems; and gas storage, transmission, and distribution systems, the City is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended or recodified; provided further, that whenever the words "Department of Transportation" appear in such Article 9 they shall be deemed to include the "City of Rocky Mount," and whenever the words "Secretary of Transportation" appear in such Article 9 they shall be deemed to include the "City Manager of the City of Rocky Mount." The powers granted to the City in this Charter for the purpose of acquiring property by eminent domain shall be in addition to and supplementary to those powers granted in any other local act or in any other general statute, and in any case in which the provisions of Article 9 of Chapter 136 are in conflict with the provisions of any local act or any other provision of any general statute, then the City Council may in its discretion proceed in accordance with the provision of such local act or other general statute, or, as an alternative method of procedure, in accordance with this Charter provision and Article 9 of Chapter 136.

(b) **Limitation.** Nothing in this section shall be construed to enlarge the power of the City to condemn property already devoted to public use.

"ARTICLE II. LOCAL IMPROVEMENTS.

"Section 380. **Authority to Make Local Improvements.** The City Council shall have authority to make the local improvements described in this Charter or otherwise permitted by law, and to assess the cost against benefited property. The procedure set forth in this Article shall not be exclusive, but shall be in addition to any other procedures provided by the General Statutes of North Carolina or other provisions of law.

"Section 381. **Separate Proceeding Not Required.** One or more local improvements may be ordered in a single proceeding, and assessments for one or more local improvements may be combined.

"Section 382. **Definitions.** Certain words and phrases will be used with the following meanings with reference to local improvements, unless some other meaning is plainly intended:

- (1) A "roadway" is the part of a street that is used, or to be used, for vehicular traffic.
- (2) A "sanitary sewer" is an underground conduit for the passage of wastewater and may include a pumping station and force main.
- (3) The word "sewer" includes both sanitary and storm sewers unless a contrary intention is shown.
- (4) A "sewer lateral" is an underground conduit connecting a residential or nonresidential property to a sanitary sewer main.
- (5) A "sidewalk" is the part of a street used, or to be used, for pedestrian traffic.
- (6) A "storm sewer" is a conduit above or below ground for the passage of storm water, and may include natural and constructed channels, swales, ditches, drainage-ways, ponds, pipes, inlets, catch basins, headwalls, pumping stations, and other physical works needed to control, convey or carry off storm water.

- (7) "Storm water" is rainfall or snowmelt that runs off the ground or impervious surfaces and drains into natural or manmade drainage-ways.
- (8) A "street" is the entire width between property lines of every way or place, of whatever nature, when any part thereof is dedicated or open to the use of the public as a matter or right for the purpose of vehicular or pedestrian traffic.
- (9) "Wastewater" is water containing solid and soluble wastes and other pollutants carried from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions together with any groundwater, surface water and storm water that may be present that is collected for treatment at the wastewater treatment plant.
- (10) A "water main" is an underground conduit for the transmission of potable water to public and private hydrants for public and private use and consumption.
- (11) A "water service" is a pipe connecting a residential or nonresidential property to a water main and may include a meter and/or backflow prevention device.

"Section 383. **Improvements Described.** The City Council shall have authority to make the following local improvements:

- (1) Roadway paving improvements, which shall 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, storm sewer inlets, manholes, and catch basins and the construction or reconstruction of retaining walls made necessary by any change of grade incident to such improvement, and in any case where the improvement is made upon petition if the petition so requests, or in any case where the improvement is made without petition if the City Council so directs, it may include the construction or reconstruction of curbs, gutters, drains, and sidewalks.
- (2) Water main improvements, which shall include the following:
 - a. Laying or construction of water mains and, in cases where the property abutting such mains is divided into lots by map or plat which is either recorded in the office of the register of deeds of the county in which such land lies or is unrecorded but approved by the City of Rocky Mount Planning Board, such improvements may, where the City Council so directs, include a tap for each lot shown on such map or plat except in cases where a tap has been previously constructed to serve such lot from another main;
 - b. The relaying where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such mains;
 - c. 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.
- (3) Sanitary sewer improvements, which shall include the following:
 - a. Laying or construction of a sanitary sewer main and, in cases where the property abutting such mains is divided into lots by map or plat which is either recorded in the office of the register of deeds of the county in which such land lies or is unrecorded but approved by the City of Rocky Mount Planning Board, such

- improvements may, where the Council so directs, include a tap for each lot shown on such map or plat, except in cases where a tap has been previously constructed to serve such lot from another main;
- b. The repairing where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such mains;
 - c. 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 sanitary sewer laterals.
- (4) Storm sewer improvements, which shall include the laying or construction of storm sewers, the relaying, where necessary, of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such sewers, and in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the Council so directs, the laying of storm sewer laterals.
 - (5) Sidewalk improvements, which shall 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, drains, and retaining walls and the construction or reconstruction of all such portions of driveways as in the judgment of the Council ought to be laid in the street area.
 - (6) Grass plot improvements, which shall include the grading and planting of grass plots and medians in a street.

"Section 384. **Water and Sewer Mains Between Streets.** Whenever the City Council finds it in the public interest, water, sanitary sewer, or storm sewer mains, or all or any of these, may be constructed between streets rather than in a street and the cost of construction of such water or sewer mains and the laterals or storm sewer mains shall be assessed according to the street frontage in the same manner and to the same extent that it would be assessed if the improvements were constructed in a street; provided that the City shall provide the rights-of-way for construction and maintenance of such mains at its own expense without assessing the cost thereof.

"Section 385. **Assessment Against Property Abutting One Side of the Street.** Any proceeding may include making any one or more local improvements in or on a street or streets and for the assessment of the cost thereof wholly against the property abutting one side of such street or streets or otherwise against such abutting property as the City Council may determine in any of the following cases:

- (1) In any case where there is park land or unimproved land abutting one side, or a part of one side, of a street.
- (2) In any case where the land abutting one side, or a part of one side, of a street is of such a nature or is devoted to such a purpose that a special assessment against it cannot be made or, if made, would probably exceed the value of the land assessed.
- (3) In any case where the owners of all the property to be assessed agree thereto.

"Section 386. **The Petition; Certificate of Sufficiency.**

(a) Petition. Except as otherwise provided in subsection (b) of this section, the petition for any local improvements shall designate by a general description the improvement proposed and shall request that such proportion of the cost of each of such improvements as may be specified in the petition be specially assessed against the

property abutting on the street or part thereof in which or on which such improvements are proposed to be made. The petition shall be filed with the City Clerk.

(b) Assessments of Portions of Street. In any case where:

- (1) 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) 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) Signatures – Generally. 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 lineal feet of frontage of the lands abutting the street or streets or part of a street or streets proposed to be improved, excluding street intersections.

(d) Signatures – Portions of Streets. Any petition for the making of:

- (1) Local improvements on one side of a street only need be signed only by a majority in number of the owners of land abutting the side of the street whereon such improvements are to be made, which majority must at least own a majority of all the lineal feet of frontage of the lands abutting such side of the street, excluding street intersections.
- (2) Any improvements covering the entire width of a street and the assessment of the cost thereof against land abutting one side of the street only or against any lands less than all of those abutting the improved portion of the street shall be signed by all of the owners of the lands thus proposed to be assessed.

(e) Rules of Construction. For the purpose of:

- (1) The petition, all owners of an undivided interest in any land shall be deemed and treated as one person and such land shall be sufficiently signed for when the petition is signed by one of the owners of such undivided interest.
- (2) This section, the word "owner" shall be considered to include the owners of any life estate, of any estate by the entirety, or of the estate of inheritance and shall not include mortgagees, trustees of a naked trust, trustees under deeds of trust to secure the payment of money, lienholders, or persons having inchoate rights in the property.

(f) Sufficiency. Upon the filing of such petition, the City Clerk shall investigate the sufficiency of the petition and, if it is found to be sufficient, shall certify the same to the Council.

"Section 387. **When No Petition Shall be Necessary.** No petition shall be necessary for the following:

- (1) Any local improvement for which the City bears the entire cost without assessment.
- (2) In the cases set forth in subsections (3) through (8) of this section where in the judgment of the City Council the abutting property to be assessed will be benefited in an amount at least equal to such assessment.
- (3) Street paving improvements: When in the judgment of the City Council:
 - a. Any street or part of a street is unsafe; or
 - b. 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

- c. The improvement of a street or part of a street is necessary to connect a paved street, or portion thereof, within the City with a paved highway beyond the City limits; or
 - d. 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
 - e. Any street or part of a street should be widened; or
 - f. The improvement of a street or part of a street should be made in the public interest.
- (4) Water main improvements: When in the judgment of the City Council any street or part of a street, or any property within the City, is without adequate public water supply, and can be served, and water service should be provided in the public interest.
 - (5) Sanitary sewer improvements: When in the judgment of the City Council any street or part of a street, or any property within the City, is without an adequate public sanitary sewer system and can be served, and sanitary sewer service should be provided in the public interest.
 - (6) Storm sewer improvements: When in the judgment of the City Council any street or part of a street, or any property within the City, is without adequate storm sewer facilities, and can be served, and storm sewers should be provided in the public interest.
 - (7) Sidewalk improvements: When in the judgment of the City 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.
 - (8) Curb and gutter improvements: When in the judgment of the City Council any street or part of a street is without curb and gutter and curb and gutter should be provided in the public interest.
 - (9) In any other case when, in the judgment of the City Council, the abutting property to be assessed will be improved in an amount at least equal to such assessment.

"Section 388. **Notice of Hearing.**

(a) Preparation; Contents. Upon the presentation of a sufficient petition for local improvements, or when it is proposed to make improvements authorized to be made without petition, a notice shall be prepared by the City Clerk containing substantially the following:

- (1) A statement 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) A statement of the proportion of the cost of the improvements to be assessed and the terms of payment.
- (4) A statement of the time and place of a public hearing on the proposed improvements.
- (5) A statement that all objections to the legality of the making of the proposed improvements shall be made in writing, signed in person or by attorney, and filed with the City Clerk at or before the time of the hearing and that any objections not so made will be waived.

(b) Publication; Service. The notice shall be published one time in a newspaper published in the City which is qualified to carry legal notices, or, if there is no such newspaper, the City Clerk shall cause to be posted in three public places in the City, the date of publication or posting to be not less than 10 days prior to the date fixed for the hearing. In addition, at least 10 days prior to the hearing, the City Clerk shall cause a copy of the notice to be mailed to the owners, as shown on the county tax records, of all

property subject to assessment if the project should be undertaken. The certificate of the person designated to mail the notices that such notices were mailed shall be conclusive in the absence of fraud. The word "owners" as used in this section has the same meaning as in Section 386.

"Section 389. **Public Hearing.** At the time for the public hearing, or at some subsequent time to which such hearing shall be adjourned, the City Council shall consider any objections to the improvements made in compliance with Section 388(a)(5), 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 objections to 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. If any such objection shall be made and shall not be sustained by the Council, the adoption of the resolution ordering the making of the improvements shall be the final adjudication of the issues presented, unless within 10 days after the adoption of the resolution proper steps shall be taken in a court of competent jurisdiction to secure relief.

"Section 390. **Resolution Ordering Improvements; Publication.** After the public hearing, if the City Council determines to make the improvements proposed, it shall adopt a resolution that shall contain:

- (1) If the improvements are to be made by petition, a finding by the Council as to the sufficiency of the petition, which finding shall be final and conclusive.
- (2) If the improvements are to be made without petition, a finding by the Council of such facts as are required in order to authorize improvements without petition.
- (3) A general description of the improvements to be made and the designation of the street or streets or parts thereof where the work is to be done.
- (4) If the improvement directed to be made is the paving of a roadway or part thereof wherein a railroad company has tracks, a direction that 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 is completed on or before a day specified in the resolution, the City Council will cause the same to be done. Where such railroad company shall occupy such street or streets under a franchise or contract which provides otherwise, such franchise or contract shall not be affected by this section except insofar as it may be consistent with the provisions of such franchise or contract.
- (5) If the improvement directed to be made includes the construction of water mains, sanitary sewers, or storm sewers and, in order to provide the mains or sewers in the street or streets to be improved, it is necessary to extend them beyond the limits of the street or streets, the resolution shall contain a provision for the necessary extension of such mains or sewers and a further provision that the cost of such extension shall eventually be assessed against the lots or parcels of land abutting the street or streets in which such extensions are made but that assessments shall not be made until such time as the City 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 such lot with the water mains or sewer pipes, or any one or more thereof, located in the street adjacent to his premises.

- (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 made.
- (8) The resolution after its passage shall be published at least once in some newspaper published in the City that is qualified to carry legal notices, or, if there is 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 directs that the notice should be mailed instead of being published, the resolution ordering the improvements need not be either published or posted.

"Section 391. **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. The determination of the Council as to the total cost of any improvement shall be conclusive.

"Section 392. **Preliminary Assessment.**

(a) Determination. 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: The total cost of any roadway paving improvement, excluding the cost incurred at street intersections, may be specially assessed against the lots and parcels of land abutting the street containing the roadway paved, according to the frontages thereon by an equal rate per foot of frontage, except that, where the petition so requested, the cost shall be assessed against the lands on one side of the street only or against such lands as were designated in the petition.
- (2) Water mains, sanitary sewers, and storm sewers: The cost of water mains, sanitary sewers, and storm sewers in such amount as is determined by the Council within its discretion but according to a predetermined policy may be assessed against the abutting property. Such cost may be assessed against the lots and parcels of land according to their respective frontages thereon by an equal rate per foot of such frontage. If 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 except when an outfall tap is permitted. Nothing contained in this subsection shall be construed to limit the power of the Council to contract with any property owner or owners for the construction of any pumping station, outfall, septic tank, or disposal plant or for the construction of water mains or storm or sanitary sewers and for the assessment of the cost thereof according to the terms of such contract. The entire cost of each water and sewer lateral may be specially charged against the particular lot or parcel of land for or in connection with which it was constructed, except that the assessment 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 may be assessed against the lots and parcels of land abutting that side of the street upon which the improvements are 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 may 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 may 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 may be assessed against all of the property abutting the side of the street within the block where such grass plot is located.

(b) Proportion of Cost. If the petition (or the resolution in those cases where the improvement was ordered made without petition) specified that there should be specially assessed against the abutting property a smaller proportion of the cost of any improvement than that set forth in subsection (a)(2) of this section, there shall be assessed against abutting property only the 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) State Property. 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, or any agency or subdivision thereof, shall be assessed against the right-of-way or property and shall be paid by the State or any agency or subdivision thereof.

"Section 393. **Corner Lot Exemptions.** The City 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, storm sewer, water main, and sanitary sewer improvements shall be in accordance with the provisions of G.S. 160A-219. If the corner formed by two intersecting streets is rounded into a curve or is foreshortened for the purpose of providing sight distance or for any other purpose of construction, the frontage for assessment purposes shall be calculated to the midpoint of the curve or foreshortened corner.

"Section 394. **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 or parcel of land assessed, the amount assessed against each lot, the name or names of the owner or owners of each lot (as defined in Section 386) as far as the same can be ascertained; provided, that a map of the improvements on which is shown the frontage and location of each affected lot, together with the amount assessed against each lot and the name or names of the owner or owners thereof, as far as the same can be ascertained, shall be a sufficient assessment roll. If the resolution directed the making of more than one improvement, a single preliminary assessment roll for all the improvements authorized by such resolution shall be sufficient, but the cost of each improvement to each lot affected shall be shown separately. After the preliminary assessment roll has been completed, it shall be filed in the office of the City Clerk, and there shall be published in some newspaper published in the City which is qualified to carry legal notices, or, if there is no such newspaper, the City Clerk shall cause to be posted in three places in the City a notice of the completion of the assessment roll, setting forth a description in general terms of the improvements, the amount of each assessment, and stating the time fixed for the meeting of the Council for the hearing of objections to the special assessment, 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 addition, at least 10 days prior to the

hearing, the City Clerk shall cause a copy of the notice to be mailed to the owners, as shown on the county tax records, of all property subject to assessment. The certificate of the person designated to mail the notices that such notices were mailed shall be conclusive in the absence of fraud.

"Section 395. **Hearing; Revision; Confirmation; 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 City 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 canceling, increasing or reducing the same, according to the special benefits which the City Council decides that each of the lots or parcels has received or will receive on account of the improvements, except that assessments against railroads because of contract or franchise obligations shall be in accordance with such obligations. If any property is omitted from the preliminary roll, the Council may place it on the roll and levy the proper assessment. The Council may thereupon confirm the assessment roll, and assessments so confirmed shall be in proportion to the special benefits, except in the case of franchise obligations of railroads. Whenever the governing body shall confirm assessments for local improvements, the City Clerk shall enter on the Council minutes and on the assessment roll the date of confirmation, and from the time of confirmation, the assessments shall be a lien on the property assessed of the same nature and to the same extent as County and City taxes and shall be superior to all other liens and encumbrances. After the assessment roll is confirmed, a copy shall be delivered to the City Collector of Revenue.

"Section 396. **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, such person or owner may, within 10 days after the confirmation of the assessment roll, give written notice to the Council that an appeal will be made to the superior court of the county in which such land is situated, in which case such owner or person shall, within 20 days after the confirmation of the assessment roll, serve on the Mayor a statement of facts upon which the appeal is based. The appeal shall be tried as other actions at law. The remedy provided in this section for any person dissatisfied with the amount of the assessment against any property of which such person is the owner, or in which such person is interested, shall be exclusive.

"Section 397. **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 is no such newspaper, the City Clerk shall cause to be posted at three public places in the City, a notice referring to the assessment roll in which the error was made, naming the owner or owners of the lot or parcel of land affected by the error, if the same can be ascertained, and naming the time and place fixed for a hearing by the Council for the correction of the error, such meeting not to be earlier than 10 days from the publication or from the date of the posting of the notice. In addition, at least 10 days prior to the hearing, the City Clerk shall cause a copy of the notices to be mailed to the owners, as shown on the county tax records of all property affected by the error. At the time fixed in the notice or at some subsequent time to which the Council may adjourn, the Council, after giving the owner or owners of the property affected and other persons interested therein an opportunity to be heard, may proceed to correct the error, and the assessment then made shall have the same force and effect as if it had originally been properly made. No notice and hearing shall be necessary if the correction does not increase an assessment against any property not owned by the City or if all of the property owners affected by the correction waive notice in writing.

"Section 398. **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 to make a reassessment. In such case there shall be included, as a part of the cost of the improvement involved, all interest paid or accrued on notes or certificates of indebtedness or bonds issued by the City to pay the expenses of such improvement. The proceeding shall, as far as practicable, be in all respects as in the case of original assessments, and the reassessment shall have the same force as if it had originally been properly made.

"Section 399. **Publication of Notice of Confirmation of Assessment Roll.** After the expiration of 20 days from the confirmation of the 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 is no such newspaper, shall cause to be posted at three public places in the City a notice of confirmation of the assessment roll and that assessments may be paid at any time before the expiration of 30 days from the date of publication or posting of the notice, without interest from the date of confirmation of the assessment roll, but that if such assessment is not paid in full within such time, all installments thereof shall bear interest at the rate provided by law from the date of confirmation of the assessment roll.

"Section 400. **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, nor more than five, equal annual installments as may have been determined in the resolution ordering the improvement. If paid in installments, installments shall bear interest from the date of confirmation of the assessment roll at the rate provided by law. 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 with interest shall be due and payable on the same day of the 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 prescribed by law for unpaid taxes, in addition to the interest herein provided for. The whole assessment may be paid at any time by the payment of the full amount due with accrued interest.

"Section 401. **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 the property and rights-of-way may be sold by the City under the same rules and regulations, rights of redemption, and savings as are prescribed by law for the sale of land for unpaid taxes. Unpaid assessments, interest, and penalties owed by railroad companies and the State of North Carolina, its agencies, or subdivisions may be collected by writs of mandamus issued by the superior court of the county in which such land is situated. Collection of assessments with interest and penalties may also be made by the City by proceedings to foreclose the lien of assessments as a lien for mortgages is or may be foreclosed under the laws of the State, and it shall be lawful to join in any bill for foreclosure any one or more lots or parcels of land by whomsoever owned, if assessed for an improvement ordered by the same resolution, after default in the payment of any installments. 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.

"Section 402. **Assessment of Cost of Water Main, Sanitary Sewer, and Storm Sewer Extensions.** If the resolution ordering the making of any improvement or improvements included a provision for any necessary extension of a water main, sanitary sewer, or storm sewer 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 cost thereof, the City Council shall cause a preliminary assessment to be made and the procedure thereafter to be followed with

respect to such assessment, and the force and effect thereof shall be as already prescribed for other assessments.

"Section 403. **Apportionment of Assessments.** In any case where one or more special assessments have been made and property has been or is about to be subdivided, and it is desirable that the assessments be apportioned among the subdivisions of such property, the Council may, upon application by the owner or owners, apportion the assessments among the subdivisions. Thereafter, each subdivision shall be relieved of any part of the original assessment except the part apportioned to the subdivision, and the part of the original assessment apportioned to any subdivision shall be of the same force and effect as the original assessment.

"Section 404. **Change of Ownership.** No change of ownership of any property or interest therein after the passage of a resolution ordering the making of a local improvement shall affect subsequent proceedings, and the improvement may be completed and assessment made as if there had been no change in ownership.

"Section 405. **Lands Subject to Assessment.** No lands in the City, including railroad company lands and rights-of-way and property of the State of North Carolina, its agencies or subdivisions, shall be exempt from special assessments, except lands belonging to the United States which are exempt under provisions of federal statutes, and the officers, boards of directors, trustees, or other governing bodies of all incorporated or unincorporated bodies in whom is vested the right to hold and dispose of real property shall have the right by authority duly given to sign the petition for any local improvements.

"Section 406. **Proceedings In Rem.** All proceedings for special assessments shall be proceedings in rem, and no mistake or omission as to the name of any owner or person interested in any lot or parcel of land affected thereby shall be regarded as a substantial mistake or omission.

"Section 407. **Council May Hold Assessments in Abeyance.**

(a) Procedure. The owner of any abutting lot included on the preliminary assessment roll may file a petition with the City Clerk, not later than five days prior to the date fixed for the hearing, stating that the improvement will not be used by the owner and requesting that the assessment be held in abeyance. The City Council, after confirming such assessment, may, if it determines that the improvement will not be used, provide by resolution that the assessment be held in abeyance without the payment of interest thereon. The resolution shall require that the owner of the lot execute a statement, which shall be recorded in the office of the register of deeds of the county in which the property is located, acknowledging that an assessment has been confirmed against the property but is being held in abeyance until such time as the Council, upon not less than 10 days' prior written notice to the owner and following a public hearing, determines by resolution that the use, character, or ownership of the lot has changed. Upon such determination the assessment shall be paid in accordance with the terms set out in the confirming resolution. One or more of such assessments or any portion of a single assessment may be held in abeyance as provided in this section without holding all of such assessment or assessments in abeyance.

(b) Statutes of Limitations. All statutes of limitations 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 limit 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 the period of abeyance has ended, and the assessment shall be paid in accordance with the original resolution confirming it.

(c) Actions Barred. Nothing in this section shall be construed to revive any right of action that has heretofore been barred by the statute of limitation.

"Section 408. **Abutting Property Outside City Limits.** 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 connections shall be made to such property, pending the annexation thereof, until all assessments thereon are paid. Upon annexation, if not paid prior thereto, the City Council may levy assessments for such local improvements against such property, and the procedure 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.

"Section 409. **Procedures Not Exclusive.** The procedures set forth in this article for making improvements shall not be exclusive but shall be in addition to the procedures for the same provided municipal corporations by the General Statutes of North Carolina as now existing or as may from time to time be amended or to any other procedure provided by law.

"ARTICLE III. FRANCHISES.

"Section 450. **Public Utility Franchises.** The City Council may grant franchises for the operation of public utilities within the City and for the use of the streets, street rights-of-way, and alleys of the City by such utilities for nonstreet and/or nonvehicular purposes for such terms and upon such conditions as the public welfare demands, and in its discretion may hold special elections on the question of granting franchises; provided, however:

- (1) The terms of such franchises shall not exceed 60 years, unless renewed at the end of the period granted.
- (2) All such franchises shall be revocable by the City Council for violation of their conditions by the franchisees if not corrected within a reasonable time after written notice from the City of such violation.
- (3) No franchise so granted may be transferred without the prior approval of the City Council.
- (4) Such franchises shall contain such reasonable provisions as the City Council in the exercise of its sound discretion deems proper, unless prohibited by law.

"Section 451. **Annexation and Expiration of Franchise.** In the event:

- (1) There is annexed to the City an area within which a utility service is being furnished; or
- (2) A public utility is operating within the City without previously having had a franchise granted to it by the City; or
- (3) A public utility is operating within the City under a franchise granted by the City and such franchise expires and is not renewed or a new franchise is not granted to the utility by the City, and the City is at such time furnishing the same utility service to its residents or is allowed by law to and has elected to begin furnishing the same to its residents; the City may, at its election:
 - a. Acquire the facilities and properties of the public utility located within the corporate limits of the City used or useful in providing particular service from such public utility by negotiation and the payment of just compensation; or
 - b. Direct the public utility to remove such facilities and properties from the public streets, street rights-of-way, alleys, parks, or other rights-of-way belonging to the City, subject to the provisions of Section 452.

"Section 452. **Necessity of Franchise.** No public utility shall commence or continue to operate or do business in the City unless such utility shall have first had granted to it a franchise by the City under the provisions of this Charter, unless such public utility shall have in effect a valid and enforceable franchise granted by the City, in which event it shall not be necessary that it have granted to it a franchise under the provisions of this

Charter until such previously granted franchise shall have expired; provided, however, if a public utility shall have been granted a franchise by the City and such franchise shall have expired, such public utility shall continue to operate under the terms of the expired franchise until:

- (1) A new franchise is granted to the same public utility; or
- (2) A franchise is granted to another public utility to furnish the same service; or
- (3) The City elects to and is in a position to render the same service and the same is allowed by law.

If the City elects to grant a franchise under subsection (1) or (2) of this section, but the City and the public utility after due negotiation are unable to agree upon the terms thereof, the matter shall be submitted by both parties and heard by the North Carolina Utilities Commission under the provisions of Article 4 of Chapter 62 of the North Carolina General Statutes as if the parties thereto had agreed to such submission in writing.

"Section 453. **Applicability.** The provisions of this article shall apply to electric, natural gas, water and sewer, telephone, pay television, pay television antennae, intracity buses, ambulances, and all other public utilities for which the City may grant franchises.

"ARTICLE IV. TRAFFIC REGULATION.

"Section 460. **Authority of City Council to Adopt Regulations.**

(a) Generally. Subject to the provisions of subsection (b) of this section, the City Council may adopt ordinances regulating the speeds of vehicles upon any City streets and may establish truck routes (or other required routes for limited classes or vehicles or traffic) applicable to any City streets. As used in this section, the term "City streets" includes all public highways, roads, and streets within the City limits, including numbered State highways, and highways, roads, and streets maintained, repaired, constructed, reconstructed, or widened in whole or in part with State funds.

(b) Certification. All ordinances concerning vehicle speeds, truck routes, or other required routes that apply to numbered State highways shall not become effective until certified to the North Carolina Department of Transportation by the City Clerk after adoption; provided, however, all such ordinances shall be prima facie deemed to have been so certified by the City Clerk upon submission of an affidavit to that effect.

(c) General Law. The authority granted in this section to the City Council shall be in addition to any authority conferred by general law upon the City Council or the City to regulate vehicles, traffic, or the use of City streets.

"Section 461. **Power to Regulate Ambulances and Wreckers.** The City Council may establish regulations governing the operation of ambulances, wreckers, and other motor vehicles used in connection with emergencies, disasters, or accidents, and may provide for the operation of an ambulance service or a wrecker service, or may enter into a contract or contracts for the providing of such service by a private person or persons.

"Section 462. **Power to Regulate Obstruction of Alleys.** If, in the opinion of the City Council, a fire hazard is created by the obstruction of private alleys, the City Council may adopt regulations prohibiting the obstruction of private alleys, either by reason of the parking of motor vehicles or otherwise, but such regulations shall not be construed so as to restrict or limit the legal right of the owners of interests in a private alley to close the alley or to exercise other property rights therein.

"Section 463. **Location of Traffic Control Devices.** The City Council may authorize the City Manager to designate the location of official traffic control devices, upon a determination by the City Manager in writing certified to the City Council:

- (1) That their installation at the location in question is necessary in order to control traffic congestion or is in the interest of public safety; or

- (2) If such a device is to be moved or removed from a particular location, that the device is no longer required at such location for control of traffic congestion or in the interest of public safety.

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

"Section 464. **Council May Accept Civil Fines in Lieu of Criminal Penalties for Traffic Violations.** Authority is hereby granted to the City Council, by ordinance, to accept civil fines in such amounts as may be deemed reasonable by the Council in lieu of satisfaction of the criminal penalties provided for the violation of traffic ordinances. The City shall pay no State taxes to the State of North Carolina for civil fines accepted in lieu or satisfaction of the criminal penalties referred to in this section. All civil penalties so collected shall be paid into the General Fund of the City.

"ARTICLE V. FISCAL AFFAIRS.

"Section 471. **Director of Finance.** The City Manager shall appoint a Director of Finance who shall have all powers and perform all duties provided by law.

"Section 472. **Collector of Revenue.** The City Manager shall appoint a Collector of Revenue who shall serve under the direction of the Director of Finance. All funds, including tax funds, owed to the City shall be collected by the Collector of Revenue and delivered to the Director of Finance.

"Section 473. **Bonds.** The City Manager, Director of Finance, and Collector of Revenue and such other persons handling funds of the City as the City Council deems advisable shall, before entering upon their respective offices, give bonds payable to the City in such amounts, according to such terms and with such sureties as the Council shall direct. The premiums for all such bonds shall be paid by the City.

"ARTICLE VI. ORDINANCE PROCEDURE.

"Section 484. **Power to Adopt Ordinances.** In addition to the powers and authorities granted municipal corporations by the Constitution and General Statutes of North Carolina relative to the adoption of ordinances having the effect of law, the City Council is hereby authorized and empowered to enact ordinances having the effect of law for the government of the City, to establish, promote, advance, and maintain the general welfare, culture, and economy of the City, its environs and inhabitants and to maintain the public peace, quiet, and good order, such ordinances to be enforceable within the City and for a distance of one mile in all directions of the City limits, and to repeal or modify the same. The City Council may further provide for the enforcement of such ordinances as provided by law.

"Section 485. **Code of Ordinances.**

(a) Generally. The City Council may adopt and provide for the publication and distribution of a codification of the City ordinances, to be known and cited as the "Code of the City of Rocky Mount." Each Code shall consist of two separate parts. The first part shall be known as "General Ordinances", and shall include all ordinances not designated "Technical Ordinances." The second part shall be known as "Technical Ordinances", and shall include all ordinances regarding the construction of buildings, the installation of plumbing, the installation of electric wiring, the installation of oil appliances or gas appliances and equipment, and other technical ordinances designated as such by the City Council.

(b) Official Copy. The official copy of the Code of the City of Rocky Mount, including all ordinances amending or supplementing the Code, shall be kept in the office of the City Clerk.

"Section 486. **Codification of Certain Zoning, Traffic and Related Ordinances by Appropriate Entries Upon Official Map Books.**

(a) Generally. Every ordinance concerning the matters enumerated in subsections (b) and (c) of this section may be codified by appropriate entries upon official map books to be retained permanently in the office of the City Clerk. Such entries shall be made by or under the direction of the City Manager. In conjunction with the

introduction of every proposed ordinance concerning any of these matters, a map of the affected area shall be presented to the City Council.

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

(c) **Vehicles.** The ordinances referred to in subsection (a) of this section also include all ordinances:

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

"Section 487. **Ordinances of Limited Application.** The City Council shall have the power to enact ordinances which shall be effective only in certain districts or sections of the City, or ordinances which may except from their operations any districts or sections of the City, if in the judgment of the City Council the condition in such sections or districts requires them to be included in or excepted from the provisions of any such ordinance.

"ARTICLE VII. PERSONNEL.

"Section 490. **Appointment and Removal of Department Heads and Employees; Compensation; Duty of Council.**

(a) **Appointments; Removals.** 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, with the approval of the City Council, may employ consultants of any kind when needed. The City Manager shall report to the City Council every appointment and removal of a department head at the next City Council meeting following the appointment or removal.

(b) **Compensation.** All pay and compensation plans shall be approved by the City Council.

(c) **Duty of Council.** Neither the City 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. The City Council and its members shall deal with the administrative service solely through the City Manager, and neither the City Council nor any member thereof shall give specific orders to any subordinates of the City Manager, be it publicly or privately.

"ARTICLE VIII. ULTIMATE STREET IMPROVEMENTS.

"Section 510. **Intent and Purpose.** It is the intent and purpose of this article to provide a method whereby the City of Rocky Mount may make provisions for the ultimate widening or extension, or both, of existing streets and highways and for the opening of new streets and highways by the establishment of proposed street lines, and for the gradual acquisition of the lands necessary for such improvements.

"Section 511. **Platting of Street Lines.** From and after the time of adoption of a major transportation plan by the City Council and the North Carolina Department of Transportation pursuant to provisions of G.S. 136-66.2, the City Council shall have the power to request, make, or cause to be made, from time to time, surveys for the exact location of the lines of proposed extended, widened, or narrowed streets and highways in the whole or any portion of the City and the area within one mile outside of its corporate boundaries. Personnel making such surveys are empowered to enter upon lands, make examinations or surveys, and place and maintain necessary monuments thereon, at reasonable times and with due care for the property. A plat or plats of the

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

"Section 512. **Establishment of Proposed Street Lines.** Following the preparation of such plats, the City Council shall officially adopt a map or maps of planned proposed streets and highways, widening, narrowing, or vacations, within the City and the area within one mile outside of its corporate boundaries. Before taking any such action, the City Council shall hold a public hearing thereon, notice of the time and place of which shall have been given once a week for two successive weeks in a newspaper published in the City or, if there is no newspaper published in the City, by posting such notice at four public places in the City and at four public places within any affected area lying outside of the corporate boundaries. Such notice shall be published or posted for the first time not less than 15 days prior to the date fixed for such hearing. Following adoption of such a map or maps, the City Council shall certify a copy to the Register of Deeds of Nash or Edgecombe County as the case may be, which copy shall be duly filed. The placing of any street or street line upon this official map or maps shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes.

"Section 513. **Right of City to Acquire Property Before Improvement.** From and after the time when any such map or maps shall have been adopted and certified to the Register of Deeds, it shall be unlawful to build upon any land within the lines of proposed streets shown thereon or to repair or otherwise improve any existing buildings within such lines until the City Council shall have been given an opportunity to purchase or otherwise acquire such property for street purposes as provided by this Article. To that end, any person proposing to build upon such land or to make repairs or improvements to any existing buildings on such land shall, in writing, notify the City Council of the nature and estimated cost of such buildings, repairs, or improvements. The City Council shall then determine whether it will take the necessary steps to acquire such land prior to the construction of such building or the making of such repairs or improvements. If it fails, within 60 days from the receipt of such notice, to acquire, adopt a formal resolution directing an appropriate officer to acquire, or institute condemnation proceedings to acquire such property, the owner or other person giving notice may proceed to erect the building or to make the repair or improvements described in such notice.

"Section 514. **Owner Failing to Give Notice Cannot Recover for Value of Improvements.** If any person, firm, or corporation builds upon any land included with such proposed street lines, or repairs or otherwise improves that part of any existing building within such lines, without giving the City Council an opportunity to acquire such land free from such improvements, as provided in this Charter, the City Council shall not be required to pay for the value of such building, repairs, or improvements in any proceeding subsequently brought to acquire the land for the purpose shown on the officially adopted map.

"Section 515. **Failure of City to Act Does Not Limit Power Subsequently to Condemn.** The failure of the City Council to take action under section 513 within 60 days after notice shall not have the effect of limiting the right of the City Council at any subsequent time to condemn the same. But in such case, the owner shall be entitled to full compensation as now provided by law for the building, repair, or improvements made after the giving of notice required by Section 513.

"Section 516. **Powers Hereby Conferred Are Supplementary.** The powers granted in this Article to the City of Rocky Mount are supplementary to any powers heretofore or hereafter granted by general or special laws for the same or a similar purpose; and in any case where the provisions of this article conflict with or are

different from the provisions of any other act, the City Council may in its discretion proceed in accordance with the provisions of either act."

SECTION 2. The purpose of this act is to revise the Charter of the City of Rocky Mount and to consolidate herein certain acts concerning the property, affairs, and government of the City.

SECTION 3. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

Chapter 938, Session Laws of 1963
Chapter 545, Session Laws of 1965
Chapter 1068, Session Laws of 1965
Chapter 427, Session Laws of 1969
Chapter 943, Session Laws of 1973
Chapter 365, Session Laws of 1975
Chapter 122, Session Laws of 1983
Chapter 328, Session Laws of 1989
S.L. 2001-330

SECTION 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

- (1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.
- (2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

SECTION 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

- (1) The repeal herein of any act repealing such law, or
- (2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 6. All existing ordinances and resolutions of the City of Rocky Mount and all existing rules or regulations of departments or agencies of the City of Rocky Mount not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

SECTION 7. 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 the City of Rocky Mount or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

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

SECTION 9. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, repealed, or superseded, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision amended, repealed, or superseded.

SECTION 10. This act becomes effective January 1, 2004.
In the General Assembly read three times and ratified this the 18th day of
July, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives