

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**HOUSE BILL 873**

Short Title: Durham Charter Provisions. (Local)

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Sponsors: Representatives Michaux; Luebke and Weiss.

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Referred to: Local Government I.

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March 29, 2001

A BILL TO BE ENTITLED

1 AN ACT REPEALING OBSOLETE OR REDUNDANT SECTIONS OF THE  
2 CHARTER OF THE CITY OF DURHAM.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** The following sections of the Charter of the City of Durham,  
5 being Chapter 671 of the 1975 Session Laws, as amended, are repealed:  
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- 8 Section 2.5. Use of Property Lines as Annexation Boundaries.
  - 9 Section 13.1. Council to Judge Elections.
  - 10 Section 23. Authority of City Manager.
  - 11 Section 24. Special Police.
  - 12 Section 28. Political Campaign Activity Prohibited.
  - 13 Section 29. Director of Public Safety.
  - 14 Section 33. Protection of the Public Water Supply.
  - 15 Section 41. Fiscal Year and Annual Estimate.
  - 16 Section 42. Revenue.
  - 17 Section 46. Authority to Impose.
  - 18 Section 48. License Not Transferable.
  - 19 Section 50. Investigation of City Affairs.
  - 20 Section 53. Opening Under the Streets; Obstructions.
  - 21 Section 58. Regulation of the Use of Public Property.
  - 22 Section 59. Suppression of Nuisances.
  - 23 Section 61. Sunday Observance.
  - 24 Section 62. Regulation of Amusements.
  - 25 Section 64. Regulation of Bondsmen.
  - 26 Section 65. Protection of Businesses from Fraud.
  - 27 Section 66. Licensing of Plumbers and Electricians.
  - 28 Section 83. Public Buildings.

- 1 Section 84. Public Contracts.  
2 Section 98. Dedication or Reservation of Recreation Areas.  
3 Section 99. Building Inspections.  
4 Section 103. Regulation of Parks and Squares.  
5 Section 104. Public Concerts.  
6 Section 106. Appropriations for Recreational, Scientific and Cultural Activities.  
7 Section 107. Advertisement of the City.  
8 Section 108. Encouraging Location of Industry.  
9 Section 109. City Ice Plant.  
10 Section 110. City Rock Quarry.  
11 Section 113. Authority to Waive Governmental Immunity.  
12 Section 117. Penalty for Failure to Turn Over City Property.

13 **SECTION 2.** Section 7 of the Charter of the City of Durham, being Chapter  
14 671 of the 1975 Session Laws, as amended, reads as rewritten:

15 "Sec. 7. Oaths of Office.—The Mayor and each Council member, before entering  
16 upon the duties of the office to which they have been elected, shall take before some  
17 officer authorized to administer oaths an oath that they will fairly and impartially  
18 perform the duties of their office. ~~The Mayor and Council members shall hold their~~  
19 ~~respective offices until their respective successors have been duly qualified."~~

20 **SECTION 3.** Section 8 of the Charter of the City of Durham, being Chapter  
21 671 of the 1975 Session Laws, as amended, reads as rewritten:

22 "Sec. 8. Powers of the City Council.—The City Council shall have full power and  
23 authority, except as otherwise provided for in this Charter, to exercise all of the powers  
24 conferred upon and delegated to the City of Durham by this Charter and by the laws of  
25 North Carolina. The City Council shall have power to make such ordinances, rules and  
26 regulations as it may deem necessary for the proper government of the City and to  
27 promote and safeguard the health, morals, safety and general welfare and convenience  
28 of the public. The City Council may provide for the proper enforcement of such  
29 ordinances, in such manner as it may think best, by fine, imprisonment or otherwise.  
30 The City Council may provide for the organization of the offices, departments and  
31 divisions of City government, not inconsistent with this Charter: By way of example  
32 and not limitation, the City Council, in performing the duties and responsibilities set  
33 forth in G.S. 160A-412, may assign all or part of the duties of an inspection department  
34 to an existing or newly created department, division or office of the City, may assign all  
35 or some of the personnel appointed pursuant to G.S. 160A-411 to an existing or newly  
36 created department, division or office of the City and may designate the job titles and  
37 duties of the personnel so assigned.

38 ~~Pursuant to Article V, Section 2(7) of the Constitution of North Carolina, the City~~  
39 ~~Council may contract with and appropriate money to any person, association, or~~  
40 ~~corporation for the accomplishment of any public purpose."~~

41 **SECTION 4.** Section 30 of the Charter of the City of Durham, being  
42 Chapter 671 of the 1975 Session Laws, reads as rewritten:

43 "Sec. 30. Authority to Operate Waterworks.—~~(1) The City Council is authorized to~~  
44 ~~conduct and operate the municipally owned waterworks of the City for the purpose of~~

1 supplying the purchasers of water of the system with a good and wholesome supply  
2 thereof. Persons employed by the City in connection with said system shall be appointed  
3 by the City Manager and shall be under his supervision and control.

4 ~~(2) For the purpose of properly operating and maintaining the system and for making~~  
5 ~~additions and improvements thereto as may be necessary at all times to properly operate~~  
6 ~~the system, the City Council shall have power to acquire by purchase or by~~  
7 ~~condemnation additional property or rights within or without the City.~~

8 ~~(3) The City Council, and all persons acting under their authority, shall have the right to~~  
9 ~~use the ground or soil, in, or upon, or under any road, railroad, highway, lane or alley~~  
10 ~~for the purpose of enlarging or improving or maintaining the plant or system of~~  
11 ~~waterworks owned by the City, upon the condition that they shall not permanently~~  
12 ~~injure any such property, and that the same shall be restored to its original condition, or~~  
13 ~~damages done thereto shall be repaired by the City Council."~~

14 **SECTION 5.** Section 1 of S.L. 1998-50 reads as rewritten:

15 ~~"§ 160A-314. Authority to fix and enforce rates.~~

16 ~~(a) A city may establish and revise from time to time schedules of rents, rates,~~  
17 ~~fees, charges, and penalties for the use of or the services furnished by any public~~  
18 ~~enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to~~  
19 ~~classes of service, and different schedules may be adopted for services provided outside~~  
20 ~~the corporate limits of the city.~~

21 ~~(a1) Before it establishes or revises a schedule of rates, fees, charges, or penalties~~  
22 ~~for structural and natural stormwater and drainage systems under this section, the city~~  
23 ~~council shall hold a public hearing on the matter. A notice of the hearing shall be given~~  
24 ~~at least once in a newspaper having general circulation in the area, not less than seven~~  
25 ~~days before the public hearing. The hearing may be held concurrently with the public~~  
26 ~~hearing on the proposed budget ordinance.~~

27 ~~The fees established under this subsection must be made applicable throughout the~~  
28 ~~area of the city. Schedules of rates, fees, charges, and penalties for providing structural~~  
29 ~~and natural stormwater and drainage system service may vary according to whether the~~  
30 ~~property served is residential, commercial, or industrial property, the property's use, the~~  
31 ~~size of the property, the area of impervious surfaces on the property, the quantity and~~  
32 ~~quality of the runoff from the property, the characteristics of the watershed into which~~  
33 ~~stormwater from the property drains, and other factors that affect the stormwater~~  
34 ~~drainage system. Rates, fees, and charges imposed under this subsection may not exceed~~  
35 ~~the city's cost of providing a stormwater and drainage system.~~

36 ~~No stormwater utility fee may be levied under this subsection whenever two or more~~  
37 ~~units of local government operate separate structural and natural stormwater and~~  
38 ~~drainage system services in the same area within a county. However, two or more units~~  
39 ~~of local government may allocate among themselves the functions, duties, powers, and~~  
40 ~~responsibilities for jointly operating a single structural and natural stormwater and~~  
41 ~~drainage system service in the same area within a county, provided that only one unit~~  
42 ~~may levy a fee for the service within the joint service area. For purposes of this~~  
43 ~~subsection, a unit of local government shall include a regional authority providing~~  
44 ~~structural and natural stormwater and drainage system services.~~

1       ~~(a2) A fee for the use of a disposal facility provided by the city may vary based on~~  
2 ~~the amount, characteristics, and form of recyclable materials present in solid waste~~  
3 ~~brought to the facility for disposal. This section does not prohibit a city from providing~~  
4 ~~aid to low income persons to pay all or part of the cost of solid waste management~~  
5 ~~services for those persons.~~

6       ~~(a3) Where (a) In addition to the authority provided in G.S. 160A-314, where~~  
7 ~~housing units qualify under city ordinances for roll out cart solid waste collection~~  
8 ~~service and the housing units instead choose to be served by stationary containers in~~  
9 ~~accordance with city ordinances, a city may provide stationary container collection~~  
10 ~~service without charging fees for such service other than the fees applicable to roll out~~  
11 ~~cart service.~~

12       ~~(a4)(b) Nothing in this section shall be construed to impair the authority of a city~~  
13 ~~to charge customers who do not qualify for service under subsection (a3) (a) of this~~  
14 ~~section the fees established by city ordinances for stationary container collection~~  
15 ~~service.~~

16       ~~(b) A city shall have power to collect delinquent accounts by any remedy~~  
17 ~~provided by law for collecting and enforcing private debts, and may specify by~~  
18 ~~ordinance the order in which partial payments are to be applied among the various~~  
19 ~~enterprise services covered by a bill for the services. A city may also discontinue~~  
20 ~~service to any customer whose account remains delinquent for more than 10 days. When~~  
21 ~~service is discontinued for delinquency, it shall be unlawful for any person other than a~~  
22 ~~duly authorized agent or employee of the city to do any act that results in a resumption~~  
23 ~~of services. If a delinquent customer is not the owner of the premises to which the~~  
24 ~~services are delivered, the payment of the delinquent account may not be required~~  
25 ~~before providing services at the request of a new and different tenant or occupant of the~~  
26 ~~premises, but this restriction shall not apply when the premises are occupied by two or~~  
27 ~~more tenants whose services are measured by the same meter.~~

28       ~~(c) Except as provided in subsection (d) and G.S. 160A-314.1, rents, rates, fees,~~  
29 ~~charges, and penalties for enterprisory services shall be legal obligations of the person~~  
30 ~~contracting for them, and shall in no case be a lien upon the property or premises~~  
31 ~~served, provided that no contract shall be necessary in the case of structural and natural~~  
32 ~~stormwater and drainage systems.~~

33       ~~(d) Rents, rates, fees, charges, and penalties for enterprisory services shall be~~  
34 ~~legal obligations of the owner of the premises served when:~~

35           ~~(1) The property or premises is leased or rented to more than one tenant~~  
36           ~~and services rendered to more than one tenant are measured by the~~  
37           ~~same meter.~~

38           ~~(2) Charges made for use of a sewage system are billed separately from~~  
39           ~~charges made for the use of a water distribution system.~~

40       ~~(e) Nothing in this section shall repeal any portion of any city charter~~  
41 ~~inconsistent herewith."~~

42       **SECTION 6.** This act is effective when it becomes law.