

A Proposed Charter for the  
**CONSOLIDATED GOVERNMENT  
FOR THE CITY OF DURHAM  
AND DURHAM COUNTY**

**1974**



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## PREFACE

The Durham City-County Charter Commission was established in September of 1971 as authorized by the 1971 North Carolina General Assembly. Eighteen organizations and groups each appointed a Commission member. The organizations and their appointees are listed on the following pages.

In the fall of 1971 the Commission organized for its work and contracted with two consultants for special services. Public Research and Management, Inc., of Atlanta, Ga., worked with the Commission and its committees in studying the existing governments of Durham County and in developing preliminary decisions about the structure, organization, and powers of the consolidated government to be proposed. This study and the preliminary decision-making phase of the Commission's work began in December 1971 and was largely completed by mid-August 1972.

The Institute of Government of the University of North Carolina at Chapel Hill was the Commission's chief legal adviser and was primarily responsible for drafting the proposed charter and companion legislation necessary to carry out the decisions of the Charter Commission.

The First Discussion Draft of the proposed charter (dated August 10, 1972) was issued on September 1, 1972. Some 500 copies of this draft were printed and distributed to members of the city and county governing boards, members of various public boards and commissions, the organizations that appointed persons to the Charter Commission, libraries and schools, administrative officials in the local governments, the news media, and interested citizens.

Between early September and the end of November, the Commission and its committees met often to review in detail the first draft and to meet with local officials and representatives of the appointing organizations to report on the work. The review resulted in many minor changes and several major modifications in the language of the first draft.

The text of the Second Discussion Draft won the Commission's

preliminary approval on November 30, 1972, and was issued on December 15, 1972. As required by the legislation establishing the Charter Commission, public hearings on this draft of the proposed charter for a consolidated government were advertised and held on January 17, 1973, and February 1, 1973. Copies of the Second Discussion Draft were distributed even more widely than the First Discussion Draft and were placed in schools and libraries to make them easily available to citizens throughout the county.

The public hearings drew more than 200 people each. About 50 persons, speaking either as individuals or as representatives of groups or organizations, offered comments and suggestions. Those who spoke at the public hearings most often commented on the provisions of the proposed charter relating to planning and the prohibition of discrimination, although nearly all sections of the charter were mentioned by someone. During the three months that followed the hearings, the Commission reviewed citizens' comments and suggestions and made numerous changes in the text of the Second Discussion Draft.

By May 1973 the Commission had reached general agreement on revisions of the entire Second Draft except Chapter 9 (Prohibition of Discrimination), and then recessed until fall.

In November of 1973 the Chairman called the Executive Committee together for the first of a series of meetings on the substance of Chapter 9. These meetings continued through December and early January 1974. On January 21, 1974, the Executive Committee agreed on a revised text of Chapter 9 to recommend to the full Commission.

The Third Discussion Draft of the proposed charter, dated January 21, 1974, was issued on February 1, 1974. This draft was comprised of the Chapter 9 text recommended by the Executive Committee and the remainder of the charter that included all changes made in the Second Discussion Draft by the full Commission during its sessions the previous year.

The final text of the proposed charter, reflecting only minor changes from the language of the Third Discussion Draft, was approved by the Commission on February 7, 1974.

On March 7, 1974, Durham County's representatives in the North Carolina General Assembly introduced a bill to enact the charter and to repeal local acts that would become obsolete or conflict with the charter if it is approved by the county's voters. The charter legislation was ratified on March 15, 1974, as Ch. 989, 1974 Session Laws.

The act provides that the Durham County Board of Elections shall conduct a referendum on the proposed consolidation of the govern-

ments of Durham County and the City of Durham on September 10, 1974.

If consolidation of the governments is approved, the new government will become effective on December 1, 1975. The Commission provided for almost 15 months between the date of the referendum and the date the new government is established to allow local officials adequate time to plan for the transition. The Mayor and members of the first governing board will be elected in the fall of 1975 and will take office on the date the consolidated government becomes effective.

If Durham citizens approve the consolidation of their governments, the merged government will have all the powers and functions of both cities and counties under North Carolina law. Thus the proposed charter contains only the structural arrangements that are special to Durham and the particular powers and procedures that are also special to Durham. The general law of the state (the Consolidated City-County Act of 1973, Ch. 160B of the General Statutes of North Carolina) sets forth the procedures for defining, enlarging, merging, and abolishing urban service districts in a consolidated government. Since this procedure is set forth in the general law, it is not outlined in the charter even though it is a significant part of the proposed arrangement.

This document, containing the proposed charter, is one of the two major documents being issued by the Charter Commission. The second document, entitled *One Government for Durham*, is the Commission's report. It provides information on the present governmental arrangements in Durham County, explains the plan of consolidation being recommended and why it is being proposed, and describes more fully the reports and studies of the Commission.

More information about the Charter Commission's work and a limited number of copies of both documents are available through the offices of the Durham county manager and the Durham city manager and through the Institute of Government of the University of North Carolina at Chapel Hill.

Durham, North Carolina  
May 1, 1974

## DURHAM CITY-COUNTY CHARTER COMMISSION

The Durham City-County Charter Commission is composed of a chairman and 41 members. The chairman, E. K. Powe, was selected jointly by the Mayor of the City of Durham and the Chairman of the Durham County Board of Commissioners. The organizations appointing members of the Charter Commission and the names of the persons appointed are listed below.

Chairman: E. K. Powe

*Act*

Mr. C. P. Ellis<sup>1</sup>

*Duke University*

Mr. Victor A. Bubas

*Durham Business and Professional Chain*

Mr. Nathaniel B. White

*Durham Central Labor Union*

Mr. Martin H. Maynor, Jr.

Mr. Walter O. Daye

*Durham Chamber of Commerce*

Mr. Watts Carr, Jr.

Mr. Marshall T. Spears, Jr.<sup>2</sup>

*Durham City Council*

Mr. Lew G. Brown

Mr. Travis H. Clements<sup>3</sup>

Mr. W. T. Coman

Mr. James D. Farthing<sup>4</sup>

Mr. John D. Lennon

Mr. J. C. Scarborough, III

Mrs. Joel K. Smith<sup>5</sup>

Mr. C. C. Woods, Jr.

*Durham Committee on Negro Affairs*

Mr. F. V. Allison, Jr.  
Mr. Harris C. Johnson  
Mr. Eric C. Michaux<sup>6</sup>  
Mr. Frank Aaron Robinson<sup>7</sup>

*Durham County Board of Commissioners*

Mr. R. D. Adams  
Mr. Lee Barnes<sup>8</sup>  
Mr. Robert F. Cooke  
Mr. S. D. Dillard  
Mrs. Virginia Duncan Edwards  
Dr. Richard Leach  
Mr. H. C. McFarland<sup>9</sup>  
Dr. Leroy T. Walker

*Durham County Delegation, North Carolina General Assembly*

Mr. Victor S. Bryant, Jr.  
Rev. Philip R. Cousin  
Mrs. Lena Marley  
Mr. O. C. Mitchell, Jr.

*Durham County Democratic Executive Committee*

Mr. A. J. H. Clement, III

*Durham County Farm Bureau*

Mr. W. A. Roseborough  
Mr. C. M. Allen

*Durham County Republican Party*

Mr. Oliver W. Alphin

*Durham Junior Chamber of Commerce*

Mr. Mickey Fogleman<sup>10</sup>

*Durham Merchants Association*

Mr. I. L. Dean

*League of Women Voters*

Mrs. Helen D. Pratt

*North Carolina Central University*

Mr. G. S. Nixon

*United Organization for Community Improvement*

Mr. Lonnie L. Wilson

*Women-In-Action for the Prevention of Violence and Its Causes*

Mrs. Josephine D. Clement

1. Appointed in January 1974 to replace Arthur Bridge, who served from January 1973 until his resignation in January 1974. Bridge was appointed to replace Ninian Beall, who served from September 1971 until his resignation in January 1973.
2. Appointed in March 1973 to replace J. B. Brame, who served from September 1971 until his resignation in March 1973.
3. Appointed in January 1973 to replace James D. Farthing during his absence from the Commission.
4. Resigned in September 1972 and reappointed in January 1974 to replace Joseph B. High, who served from September 1971 until his resignation in July 1973.
5. Appointed in January 1974 to replace Christine E. Vick, who served from September 1971 until her resignation in September 1973.
6. Appointed in September 1972 to replace Willie C. Lovett, who served from September 1971 until his resignation in August 1972.
7. Appointed in January 1973 to replace Charles Davis, who served from September 1971 until his resignation in January 1973.
8. Appointed in July 1972 to replace J. H. Edgerton, who served from September 1971 until his death in May 1972.
9. Appointed in January 1974 to replace Darrell Kennedy, who served from September 1971 until his resignation in July 1972.
10. Appointed in June 1972 to replace William C. Mann, who served from September 1971 until his resignation in June 1972.



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## CHAPTER 1. GENERAL PROVISIONS

### Article 1. Creation and Boundaries

Sec. 1-1. *Durham government established.*—(a) The powers, duties, rights, privileges and immunities of the City of Durham are consolidated with those of the County of Durham. These consolidated powers, duties, rights, privileges and immunities are exercised and enjoyed by a government for Durham County known as The Government of Durham and Durham County (herein called “the Durham government”). The government is the legal successor to the separate governments of the City of Durham and the County of Durham. Durham County continues as a county of the State of North Carolina, and the Durham government shall perform all the duties and serve all the purposes required of counties under the Constitution and laws of the State of North Carolina.

(b) The City of Durham is abolished as an independent municipal corporation.

Sec. 1-2. *Boundaries.*—The Durham government has jurisdiction and extends territorially throughout Durham County.

Sec. 1-3 through 1-5. Reserved.

### Article 2. Powers

Sec. 1-6. *Corporate Powers.*—The inhabitants of Durham County are constituted a body politic and corporate under the name of The Government of Durham and Durham County and under that name have perpetual succession; shall have a common seal and may alter and renew it at will; may sue and be sued; may contract; may acquire and hold all property and rights of property, real and personal, that may be devised, bequeathed, sold or in any manner conveyed or dedicated to or otherwise acquired by them; and may hold, invest, sell or dispose of such property and rights of property.

Sec. 1-7. *Grant of county and city powers.*—Except as otherwise provided in this charter, the Durham government and its officers and employees may exercise and do enjoy (1) all the powers, duties, rights, privileges and immunities that counties at or after the effective date of this charter may exercise and do enjoy under the Constitution and general laws of the State of North Carolina, (2) all the powers, duties, rights, privileges and immunities that cities at or after the effective date of this charter may exercise and do enjoy under the Constitution and general laws of the State of North Carolina and (3) all the powers, duties, rights, privileges and immunities that the City of Durham or Durham County at the effective date of this charter could exercise and enjoy under special acts of the General Assembly of North Carolina. All these special acts applying to the City of Durham or Durham County are continued and apply to the Durham government except as expressly repealed by this charter or when clearly inconsistent with the provisions of this charter.

Except as otherwise provided in this charter, the Durham government may exercise and does enjoy throughout its jurisdiction any power, duty, right, privilege or immunity granted to it by law.

In exercising and enjoying any power, duty, right, privilege or immunity, the Durham government shall follow the procedures if any, set out in this charter. If the charter contains a procedure that does not include all acts necessary to exercise the power, duty, right, privilege or immunity, the Durham government shall supplement the charter procedure by applicable procedures set out in other statutes. If no procedure is set out in the charter, the Durham government shall follow the procedure set out in any general or applicable local law granting the power, duty, right, privilege or immunity; and if two or more laws, other than this charter, grant the same power, duty, right, privilege or immunity, but with differing procedures, the Durham government may proceed under either. Before proceeding under either procedure, the Board of Government shall by resolution select which of the alternative procedures available under general law the Durham government shall follow. The Board may by resolution change the selection from time to time. The procedure set out in any statute, when employed by the Durham government, is deemed amended to conform to the structure and administrative organization of the Durham government. If a statute refers to the governing body or governing board of a county or city, the reference, except as otherwise provided in this charter, means the Board of Government; and a reference to a specific official means the official of the Durham government who most nearly performs the same

duties performed by the specified official. If there is doubt as to the appropriate official, the Board shall by resolution designate an appropriate official to act as fully as if his office were specified in the statute.

## CHAPTER 2. THE BOARD OF GOVERNMENT

### Article 1. The Governing Body

Sec. 2-1. *Composition; numbers of members; how elected.*—The governing board of the Government of Durham and Durham County is the Board of Government. It has sixteen members. There are sixteen electoral districts, and the qualified voters of each district shall elect one member of the Board.

Sec. 2-2. *Terms.*—Except for the initial members of the Board of Government, who shall serve for the terms provided for in Section 10-9 of this charter, members of the Board are elected to four-year terms, and shall take office at the first regular meeting of the Board in December next following their election.

Sec. 2-3. *Eligibility.*—To be eligible for election to, appointment to and service on the Board of Government, a person must be eligible for election by the people under the Constitution of North Carolina. In addition, no person may file notice of candidacy for or be nominated, elected, appointed, or serve from a district in which he does not reside.

Sec. 2-4. *Compensation.*—The initial base compensation of members of the Board of Government is \$200 per month. In addition, each member of the Board is entitled to receive \$25 for attendance at each official meeting of the Board and of the committee of the whole, but the total of sums received for attendance at meetings may not exceed \$150 in any month.

The Board may by ordinance fix its own compensation, to become effective on December 1 following the next regular Durham government election following adoption of the ordinance.

Sec. 2-5. *Vacancies.*—A vacancy in the membership of the Board of Government exists when a duly elected person fails to qualify, or when a member who has been duly elected and has qualified either dies, resigns, no longer meets the requirements of Section 2-3 of this charter, is removed or is recalled. The Board shall fill all vacancies.

In order to qualify, the person appointed shall take and subscribe the oath required by the Constitution of North Carolina. The term of the appointed member extends to the first regular meeting of the Board in December following the next general Durham government election. At the next general Durham government election following the creation of a vacancy, a person shall be elected to the seat vacated, either for the remainder of the unexpired term, or if the term has expired, to a four-year term.

Sec. 2-6 through 2-10. Reserved.

## **Article 2. Organization, Rules, Officers**

Sec. 2-11. *Organizational meetings.*—The Board of Government shall meet on the date of the first regular meeting of the Board in December next following each Durham government election. At that meeting, the Mayor and each member of the Board whose term of office begins that day shall take and subscribe the oath required by the Constitution of North Carolina. The Clerk of Superior Court shall administer the oath. A member absent from the organizational meeting may take and subscribe the oath at a later time.

Sec. 2-12. *Mayor Pro Tempore; duties.*—At the first regular meeting of the Board of Government in December next following each Durham government election, the Board shall elect from among its members a Mayor Pro Tempore to serve a two-year term. The Mayor Pro Tempore shall preside at meetings of the Board in the absence of the Mayor.

The Mayor Pro Tempore is a member of the Board for all purposes, including the determination of whether a quorum is present.

In the event of a vacancy in the office of Mayor, the Mayor Pro Tempore shall act as Mayor until a Mayor is appointed by the Board pursuant to this charter.

Sec. 2-13. *Rules.*—Consistent with this charter, the Board of Government may adopt its own rules of procedure. The Board shall adopt rules under which the public shall be afforded reasonable opportunity to be heard on any matter before the Board.

Sec. 2-14. *Quorum; voting.*—Nine members of the Board of Government or eight member of the Board and the Mayor constitute a quorum. A member who has withdrawn from a meeting without being excused by a majority vote of the remaining members present shall be counted as

present for purposes of determining whether or not a quorum is present.

The vote of each member on each ordinance shall be recorded in the official minutes. Voting by proxy is not allowed.

If a matter before the Board involves a member's official conduct or his personal or financial interest, the member must state the nature and extent of his interest. The Board, in its discretion, may excuse the member from voting upon matters involving his official conduct or his personal or financial interest but may not excuse a member from voting for any other reasons. In all other cases, a member is required to vote on matters before the Board.

A member who is present and fails to vote or who having been present has withdrawn from the meeting without being excused by the remaining members of the Board shall be recorded as having voted affirmatively.

No action may be taken except by an affirmative vote of a majority of the votes cast. Except when a greater number is required by law, an affirmative vote of a majority of all of the members of the Board, including the Mayor, not excused from voting on the question in issue is required to adopt an ordinance or take any action having the effect of an ordinance or ratify or authorize any contract on behalf of the Durham government except that only a simple majority of the votes cast is required to adopt a budget ordinance.

Sec. 2-15. *Meetings.*—The Board of Government shall hold its regular meetings in the evening at a time starting after 6:00 p.m. The Board shall fix the time, day and place of its regular meetings and shall hold at least one regular meeting each month. A meeting of the committee of the whole is not a regular meeting of the Board. The Mayor, a majority of the members of the Board or the Chief Administrative Officer may call a special meeting of the Board. The person or persons calling the meeting shall, at least twenty-four hours in advance of the meeting, cause a written notice of the meeting to be delivered to each member or to be left at his usual residence or place of business. He or they shall also cause public notice of the meeting to be made at least twenty-four hours in advance of the meeting. The notice shall state the time and place of the meeting and the business to be transacted, and shall be signed by the person or persons calling the meeting. Only the business stated in the notice may be transacted at the meeting.

The Mayor, a majority of the members of the Board or the Chief Administrative Officer may call a meeting to deal with an emergency.

The notice provisions of this section do not apply to those meetings. The Board shall specify by ordinance the procedure for calling a meeting to deal with an emergency.

Sec. 2-16 through 2-19. Reserved.

### **Article 3. Legislative Powers and Ordinance Procedure**

Sec. 2-20. *Legislative power.*—All legislative powers of the Durham government are vested in the Board of Government.

Sec. 2-21. *Ordinance procedure.*—(a) *Adoption.* No ordinance nor any action having the effect of an ordinance may be adopted on the date on which it is introduced except by an affirmative vote of at least twelve members of the Board of Government or of eleven members of the Board and the Mayor. No ordinance making a grant, renewal, extension or amendment of any franchise may be finally adopted until it has been passed at two regular meetings of the Board.

(b) *Effective date.* Bond orders, franchise, appropriation, revenue, and budget ordinances and any ordinance that by law may not be adopted without prior public notice and a public hearing become effective as provided in the ordinance. All other ordinances become effective at the expiration of thirty days after adoption or at any later date specified in the ordinance except an ordinance may take effect upon adoption if the Board determines that immediate operation of the ordinance is necessary to protect the health, safety or welfare of the citizens of Durham County or the public peace and dignity. Any such ordinance that is to become effective upon adoption shall contain a declaration stating in clear and specific terms the reason for its immediate effective date.

### **Article 4. Initiative and Referendum**

Sec. 2-22. *General Authority.*—(a) *Initiative power.* The qualified voters of the Durham government have the power to propose any ordinance to the Board of Government, except a budget ordinance, bond order, franchise ordinance or any ordinance creating, expanding or abolishing an urban service district. The initiative process may be used to repeal any ordinance that could be proposed under the initia-

tive process except that it may not be used to repeal any ordinance affirmed by a referendum election within one year after the referendum vote. If the Board fails to adopt the ordinance without substantive change, the voters have the power to approve or reject the proposed ordinance at the polls. These powers comprise the initiative power.

(b) *Referendum power.* The qualified voters of the Durham government have the power to require reconsideration by the Board of Government of any adopted ordinance, except a budget ordinance, bond order, franchise ordinance or any ordinance that by law may not be adopted without prior public notice and a public hearing. If the Board fails to repeal an ordinance which it has been required to reconsider, the voters shall have the power to approve or reject the referred ordinance at the polls. These powers comprise the referendum power.

Sec. 2-23. *Commencement of proceedings.*—Any five qualified voters may commence an initiative or referendum petition by filing with the Durham government clerk an affidavit stating that they will constitute the petitioners' committee and will be responsible for circulating the petition and filing it in proper form.

Sec. 2-24. *Petitions.*—(a) *Signatures.* An initiative or referendum petition shall bear the signatures equal in number to at least ten per cent of the registered voters of the Durham government or 5,000, whichever is less.

(b) *Form and content.* The Board of Government by ordinance shall specify the form and content of a petition and procedures for initiative and referendum elections.

(c) *Time for filing.* An initiative petition may be filed at any time. A referendum petition must be filed within 30 days after adoption by the Board of Government of the ordinance sought to be reconsidered.

Sec. 2-25. *Certification.*—The petition shall be filed with the Durham government clerk and the signatures shall be verified by the Durham County Board of Elections. The Board of Government by ordinance shall specify the procedures for certifying the sufficiency of a petition. The Board shall provide in the ordinance reasonable time limits for completing the certification of sufficiency or insufficiency of a petition.

Sec. 2-26. *Suspension of effective date of referred ordinance.*—When, within the time allowed, a referendum petition is filed with the Durham government clerk, the ordinance sought to be reconsidered shall be suspended from taking effect, except that an ordinance which takes effect upon adoption as provided in Section 2-21(b) of this



charter shall continue in effect until repealed. The suspension of the effective date of an ordinance shall terminate when:

- (a) There is a final determination that the petition is insufficient,
- (b) The petitioners' committee withdraws the petition, or
- (c) The Board of Elections certifies that the repeal of the ordinance has been rejected in an election.

Sec. 2-27. *Consideration by Board of Government and submission to vote.*—When an initiative or referendum petition has been finally determined sufficient, the Board of Government shall promptly consider it. If the Board fails to adopt without substantive change an ordinance proposed by initiative petition or fails to repeal a referred ordinance within sixty days after the date on which the petition was certified as sufficient, the Board shall cause the proposed ordinance or the referred ordinance to be submitted to the voters of the Durham government. The vote on the proposed ordinance or the referred ordinance shall be held within 120 days of the date on which the petition was certified as sufficient.

Sec. 2-28. *Withdrawal of petition.*—The petitioners' committee may withdraw the initiative or referendum petition at any time prior to the fifteenth day immediately preceding the day scheduled for a vote on the proposed or referred ordinance. The written request for withdrawal shall be signed by at least four members of the petitioners' committee and shall be filed with the Durham government clerk. The filing of the request withdraws the petition. The petition has no further effect and all proceedings are terminated.

Sec. 2-29. *Results of election.*—(a) *Initiative.* If a majority of those voting in an initiative election approve the proposed ordinance, it shall become an ordinance of the Durham government on the date the results of the election are certified or a later effective date specified in the proposed ordinance.

(b) *Referendum.* If a majority of those voting in a referendum election approve the repeal of the referred ordinance, it shall be repealed on the date the results of the election are certified. If a majority of those voting in the election reject the repeal of the ordinance, the ordinance shall be an ordinance of the Durham government and shall become effective on the date the results of the election are certified or a later effective date specified in the referred ordinance.

## CHAPTER 3. MAYOR

### Article 1. Qualification and Election

Sec. 3-1. *Election; term.*—The qualified voters of the entire Durham government elect the Mayor to a two-year term of office. He assumes office at the first regular meeting of the Board of Government in December next following his election.

Sec. 3-2. *Eligibility.*—To be eligible for election to, appointment to and service as Mayor, a person must be eligible for election by the people to office under the Constitution of North Carolina.

Sec. 3-3. *Compensation.*—The initial annual compensation of the Mayor is \$6,000. The Board of Government may by ordinance fix his compensation, to become effective on December 1 following the first regular Durham government election following adoption of the ordinance.

Sec. 3-4. *Vacancy.*—A vacancy in the office of Mayor exists when a duly elected person refuses to qualify or when a person who has been elected and has qualified dies, resigns, no longer meets the requirements of Section 3-2 of this charter, is removed or is recalled. The Board of Government shall fill any vacancy by appointing a person to the remainder of the unexpired term. In order to qualify, the person appointed shall take and subscribe the oath required by the Constitution of North Carolina.

Sec. 3-5. *Absence; temporary incapacity.*—The Mayor may designate the Mayor Pro Tempore to serve as acting mayor while the Mayor is absent from the county. If the Board of Government, by a vote of twelve of its members, determines that the Mayor is temporarily incapacitated, the Mayor Pro Tempore shall serve as acting mayor for the duration of the incapacity. Nine members of the Board may determine that the Mayor's incapacity has terminated.

If an emergency arises during the absence of the Mayor from the county, the Board, by a vote of twelve of its members, may designate the Mayor Pro Tempore to serve as acting mayor. The designation of

the Mayor Pro Tempore as acting mayor terminates when the Mayor is no longer absent from the county or when nine members of the Board determine that the emergency has ended.

When serving as acting mayor, the Mayor Pro Tempore shall have the powers, duties, rights, privileges, and immunities of the office of Mayor.

## Article 2. Powers and Duties

Sec. 3-6. *Powers and duties.*—The Mayor is the official head of the Durham government. Consistent with the provisions of this charter, he has all the powers, duties, rights, privileges and immunities granted to and imposed on chairmen of boards of county commissioners and mayors of cities by the general laws of North Carolina.

He shall preside at meetings of the Board of Government and has the rights, powers, duties and responsibilities of a member of the Board.

The Mayor, unless some other officer or employee is authorized by the Board, shall sign each written contract or obligation of the Durham government and any of its agencies, boards, commissions and authorities. No contract or obligation of the Durham government or any of its agencies, boards, commissions and authorities required to be in writing is binding on them until so signed.

## CHAPTER 4. ELECTIONS AND REMOVAL

### Article 1. Conduct of Elections

Sec. 4-1. *Applicability of general laws.*—Except as otherwise provided in this charter, Chapter 163 of the General Statutes as applicable to cities governs the elections for the office of Mayor and for membership on the Board of Government. When used in Chapter 163, the word "city" or "cities" includes the Durham government. The office of Mayor and membership on the Board are city offices.

Sec. 4-2. *Election board; officials.*—The County Board of Elections shall conduct the elections for the Durham government. The election officials appointed by the County Board of Elections shall be the election officials for Durham government elections.

Sec. 4-3. *Types of elections.*—The Mayor and members of the Board of Government shall be elected by the nonpartisan primary and election method as provided in G.S. 163-290 and 163-294.

Sec. 4-4. *Filing fee.*—The filing fee for the initial primary shall be sixty dollars for the office of Mayor and forty-two dollars for membership on the Board of Government. The Board of Government may modify the filing fee for primaries no later than July 1 immediately preceding the first primary to which it is to apply.

Sec. 4-5. *Absentee ballots.*—The provisions of Articles 20 and 21 of Chapter 163 of the General Statutes shall apply to the elections of the Mayor and members of the Board of Government.

Sec. 4-6. *Regulation of campaign expenses.*—Article 22 of Chapter 163 of the General Statutes applies to elections held under this article.

Sec. 4-7 through 4-9. Reserved.

### Article 2. Districts, Reapportionment

Sec. 4-10. *Districts established.*—The boundaries and the numbers of the sixteen electoral districts are set out in Chapter 11 of this charter.

Sec. 4-11. *Commission established; membership.*—By July 1 of the year in which an official federal census is taken, the Board of Government shall establish a Districting Commission of sixteen members. Each member of the Board shall appoint to the Commission one person who resides in the electoral district that the member represents. The Commission functions until a new districting plan is adopted or until it determines that a new districting plan is unnecessary.

Sec. 4-12. *Redistricting.*—After publication of the official federal census, the Districting Commission shall determine the population of each existing electoral district and whether redistricting is necessary because the population among districts is substantially unequal. If there is a difference of at least ten per cent between the populations of the most populated and of the least populated districts, the population shall be deemed to be substantially unequal. The Commission, moreover, may determine that a difference of less than ten per cent causes the population to be substantially unequal. If the Commission finds that the population of the districts is substantially unequal, the Commission shall adopt a plan of redistricting no later than July 1 of the year following the year in which the official federal census was taken. The districts as established by the plan shall be the basis for electing members of the Board of Government at the first election following its adoption and each election thereafter until a new plan is adopted. The plan shall take effect on the date of the first regular meeting of the Board in December next following the first election to which the plan applied.

In any plan adopted, all electoral districts shall be as nearly equal in population as possible; the districts shall assure, as reasonably as possible, equitable representation on the Board of races, socio-economic groups and geographic sections of the county; and each district shall be formed of compact, contiguous territory and its boundary lines, to the extent possible, shall follow natural or distinctive features such as rivers, roads and streets.

The Commission shall certify any new districting plan to the Durham County Board of Elections within seven days after its adoption by the Commission.

If a plan causes a vacancy on the Board, the vacancy shall be filled at the first election to which the plan is to apply. The person elected to fill the vacancy shall take office at the first regular meeting of the Board in December next following his election, and is elected to the remainder of the unexpired term. If two or more members of the Board are found to reside in a single new district created by the adoption of

a new districting plan, the member who previously occupied the district with the same number as the number of the new district shall be the representative of that district. If two or more members of the Board reside in a newly formed district, the number of which is different from that of the district either previously represented, a vacancy on the Board from that district shall be deemed to have been caused by the adoption of the new districting plan.

Sec. 4-13 and 4-16. Reserved.

### **Article 3. Removal**

Sec. 4-17. *Removal by the Board of Government.*—The Board of Government after a removal hearing and an affirmative vote of twelve of its members or of eleven members and the Mayor may remove from office a member of the Board or the Mayor for nonfeasance, misfeasance, malfeasance or conviction of a crime involving moral turpitude. A member of the Board or the Mayor may initiate removal by making a motion at a Board meeting calling for the removal of an officer. The motion shall specify the grounds on which removal is sought. The Durham government clerk shall cause written notice of the motion and a copy of the charges to be given to the officer against whom removal is sought at least ten days before the removal hearing. At the removal hearing, the officer shall have the right to be heard in person and by counsel in his defense. If a member of the Board or the Mayor is removed, the vacancy shall be filled as provided in Section 2-5 or Section 3-4 of this charter.

Sec. 4-18. *Recall.*—The Mayor, a member of the Board of Government, a member of the Durham County Board of Education and the Register of Deeds are subject to removal pursuant to this section. An officer is removed upon the filing of a sufficient recall petition and the affirmative vote of a majority of those voting on the question of removal at a recall election.

A recall petition shall be filed with the Durham County Board of Elections. A petition to recall the Mayor, a member of the Durham County Board of Education or the Register of Deeds shall bear the signatures equal in number to at least twenty per cent of the registered voters in the Durham government. A petition to recall a member of the Board of Government shall bear the signatures equal in

number to at least twenty per cent of the registered voters in the district that the member represents.

The Board of Elections shall verify the petition signatures. If a sufficient recall petition is submitted, the Board of Elections shall certify its sufficiency to the Board of Government, and the Board of Government shall adopt a resolution calling for a recall election to be held not less than forty days nor more than sixty days after the petition has been certified to the Board of Government. The election may be held by itself or at the same time as any other general or special election within the period. The Board of Elections shall conduct the recall election. The proposition submitted to the voters shall be substantially in the following form:

For the recall of (name of officer)

Against the recall of (name of officer)

The registered voters of the Durham government are eligible to vote in an election to recall the Mayor, a member of the Board of Education or the Register of Deeds. In an election to recall a member of the Board of Government, only the voters registered in the district that the member to be recalled represents are eligible to vote.

If a majority of the votes cast on the question are against the officer's recall, he shall continue in office, but is subject to recall as before. If a majority of the votes cast on the question are for the recall of the officer, he is removed on the date the Board of Elections certifies the results of the election. A vacancy created by removal of a member of the Board of Government or the Mayor shall be filled as provided in Section 2-5 or Section 3-4 of this charter. A vacancy created by removal of a member of the Board of Education shall be filled as provided in Chapter 296 of the 1963 Session Laws. A vacancy created by the removal of the Register of Deeds shall be filled by the Board of Government.

## **CHAPTER 5. ADMINISTRATIVE**

### **Article 1. General Administration**

Sec. 5-1. *Initial administrative organization.*—The initial administrative organization of the Durham government is that of the merging governments on the effective date of this charter and shall continue until changed by law or in accordance with the provisions of this charter.

Sec. 5-2. *Administrative reorganization.*—Except as restricted by this charter or the general law of the State, the Board of Government may reorganize the administrative structure of the Durham government by creating, consolidating, reorganizing and abolishing offices, positions, departments, committees, agencies, boards, commissions and authorities of the Durham government. In a plan of reorganization, the Board may impose additional powers and duties on any office, position, department, committee, agency, board, commission or authority. Except by amendment of this charter, however, no office, position, department, committee, agency, board, commission or authority expressly established or continued by this charter may be abolished, nor may any power, duty, right, privilege or immunity expressly conferred by this charter be removed or abolished.

Sec. 5-3 through 5-5. Reserved.

### **Article 2. Chief Administrative Officer**

Sec. 5-6. *Appointment; qualifications; term.*—The Board of Government shall appoint the Chief Administrative Officer to hold office at the pleasure of the Board. The Chief Administrative Officer shall be appointed solely on the basis of his executive and administrative qualifications and need not be a resident of Durham County when appointed.

Sec. 5-7. *Duties and responsibilities.*—The Chief Administrative Officer shall:

- (a) See that the laws of the state and the ordinances, resolutions,



rules and regulations of the Durham government are faithfully executed and enforced within the county.

(b) Attend all meetings of the Board of Government and recommend for adoption any measure he deems expedient.

(c) Make reports to the Board from time to time upon the affairs of the Durham government and keep the Board fully advised of the Durham government's financial condition and its future financial needs.

(d) Appoint and suspend or remove all Durham government employees whose appointments or selections are not otherwise provided for in this charter or by general law, in accordance with personnel rules, regulations, policies or ordinances adopted by the Board.

(e) Prepare and submit the annual budget and capital program to the Board.

(f) Direct and supervise the administration of all departments, boards, offices, agencies and commissions of the Durham government, subject to the general direction and control of the Board, except as otherwise provided by law.

(g) Exercise any other powers and perform any other duties authorized by the Board and not inconsistent with this charter or with the general law of the State.

Sec. 5-8. *Absence or disability.*—By letter filed with the Durham government clerk, the Chief Administrative Officer may designate, subject to the approval of the Board of Government, a qualified person to exercise the powers and perform the duties of the Chief Administrative Officer during his temporary absence or disability. During this absence or disability, the Board may revoke that designation and appoint another to serve until the Chief Administrative Officer returns or his disability ceases.

Sec. 5-9 through 5-11. Reserved.

### Article 3. Personnel

Sec. 5-12. *Personnel system.*—The Board of Government shall establish by ordinance a system of personnel administration. The system shall cover all employees of the Durham government except as otherwise provided by law.

The system shall not cover (a) elected officials, (b) employees of the Durham City and County Boards of Education and (c) employees of any committee, agency, board, commission and authority authorized to appoint its own chief administrative officer except as otherwise provided in this charter or other law. Employees of the Sheriff and

Register of Deeds are appointed, supervised and discharged pursuant to the provisions of general law. Employees subject to state or federal civil service regulations and procedures may be made subject to the personnel ordinances of the Durham government in any manner consistent with state or federal regulations and procedures.

The system of personnel administration may provide for classification of positions, the manner and method of publicizing vacancies, employing and appointing personnel, the qualifications of employees, employee evaluations and performance, salaries, hours of employment, vacations, sick leave, special workman's compensation leave, job security, promotion, demotion, disciplinary procedures, transfer, lay-off, removal, welfare of employees, retirement policy, payment of premiums for employee insurance benefits, grievance procedures, service awards, training leave and any other measures that promote the hiring and retaining of capable, diligent and honest career employees.

Sec. 5-13. *Discrimination prohibited.*—It is the policy of the Durham government and its committees, agencies, boards, commissions and authorities that appointment, promotion, demotion, transfer, layoff, disciplinary action, removal, rates of compensation, employee benefits and all other personnel matters shall be determined without respect to race, color, religion, sex, national origin, age (except upon the basis of a bona fide occupational qualification, retirement plan or statutory requirement), political affiliation or any circumstances other than merit and qualification.

The Durham Human Relations Commission shall annually make a survey of the personnel practices of the Durham government and its committees, agencies, boards, commissions and authorities to assess the extent to which the policy of non-discrimination is being followed. The Committee shall make a report of its findings to the Board of Government on the third Monday of January of each year and may make recommendations to the Board for actions or changes in practices the Commission deems appropriate to the full observation of the policy.

The Durham Human Relations Commission is authorized, on its own, to initiate investigations of employment practices and to hear grievances by employees or prospective employees of the Durham government who allege that they have been discriminated against because of race, color, religion, sex, national origin, age, political affiliation or any circumstances other than merit and qualification.

Any employee or prospective employee of the Durham government who claims that he has been discriminated against or denied oppor-

tunities because of race, color, religion, sex, national origin, political affiliation or any circumstances other than merit and qualification may file a signed, written complaint with the Commission. The complaint shall include the name of the department head, supervisor or officer alleged to have committed the discriminatory practice, a description of the alleged discriminatory practice and any other information required by the Commission. After the filing of the complaint, the Commission shall cause a prompt investigation to be made.

All department heads, supervisors or officers shall cooperate with the Human Relations Commission in the conduct of any investigation.

If the Commission determines after the investigation that there is insufficient evidence to support the complaint, it shall within ten days of the determination give the complainant written notice of its findings. The complaint is then dismissed unless the complainant requests a review hearing within ten days after receipt of the Commission's findings. Upon the request for a review hearing, the Commission shall provide an opportunity for the complainant or his attorney to appear before the Commission and present any additional information to support the allegations of the complaint. The Commission shall also provide an opportunity for the department head, supervisor or officer alleged to have committed the discriminatory practices to be heard. If after hearing the additional information the Commission determines that there is insufficient evidence to support the allegation, the complaint shall be dismissed.

Complainants and employees representing them or testifying at a hearing or assisting in any manner in an investigation under this section shall be free from restraint, interference, retaliation or coercion, at any stage in the presentation and processing of a complaint or at any time thereafter. No employee who has filed a complaint or assisted in any manner in an investigation of a complaint may be subject to loss of pay through discharge or demotion or transfer within 120 days of the date of final action on the complaint by the Human Relations Commissions unless and until the Commission finds that no retaliation or reprisal is involved in the personnel action. The Commission is authorized to make an investigation and hold hearings to determine whether retaliation or reprisal is involved in such actions.

If the Commission after any investigation determines that a pattern and practice of discrimination exists, it may endeavor to eliminate the discriminatory practice by persuasion, force of publicity or any other reasonable and appropriate means.

If, after investigation of any complaint, the Commission determines that an applicant for employment has been discriminated against and except for that reason would have been hired, or an employee has been discharged, demoted, denied promotion, transferred against his wishes, or unfairly disciplined solely because of discrimination, it shall make appropriate certification of its findings to the Board of Government. The Board may instruct the Chief Administrative Officer to offer the applicant employment of the type and grade denied, to rehire and award back pay to the discharged employee, to promote and award back pay to the employee denied promotion or demoted, to return to his former position the employee who has been transferred against his will, or to take any appropriate remedial action in the case of an unfairly disciplined employee including expunction from the personnel record of any reference to any disciplinary action.

#### **Article 4. Special Appointments**

Sec. 5-14. *Legal department.*—The Board of Government shall appoint a chief legal officer to serve at the pleasure of the Board. The chief legal officer provides legal services for the Durham government, and he may appoint necessary assistants.

Sec. 5-15. *Durham government clerk.*—The Board of Government shall appoint a Durham government clerk to serve at the pleasure of the Board. The clerk shall keep the record and minutes of the Board and perform any other duties that may be required by law or by the Board.

Sec. 5-16 through 5-18. Reserved.

#### **Article 5. Continuing Offices**

Sec. 5-19. *Sheriff continued.*—The office of Sheriff of Durham County continues within the Durham government as provided in the Constitution and laws of North Carolina.

Sec. 5-20. *Duties continued.*—The duties of the Sheriff of Durham County continue within the Durham government as provided in the Constitution and laws of North Carolina.

Sec. 5-21. *Powers and duties of law enforcement personnel.*—The Board of Government may provide for the appointment of law enforce-

ment personnel of varying ranks or grades. Law enforcement personnel of the Durham government have throughout Durham County the arrest powers of a Sheriff and the powers and duties of city police officers under the laws of North Carolina.

Sec. 5-22. *Register of Deeds continued.*—The office of Register of Deeds of Durham County continues within the Durham government as provided in the laws of North Carolina.

Sec. 5-23. *Duties continued.*—The duties of the Register of Deeds of Durham County continue within the Durham government as provided in the laws of North Carolina.

Sec. 5-24 through 5-26. Reserved.

## **Article 6. Planning and Regulation of Development**

Sec. 5-27. *Creation of planning department; duties and responsibilities.*—The Board of Government shall create a professionally staffed Department of Planning within the administrative structure of the Durham government to take effect on July 1, 1976.

The Department of Planning shall:

(a) Be responsible for current planning, urban renewal planning, research and studies of the Durham area and providing technical assistance to other departments in planning for the Durham government;

(b) Prepare a comprehensive development plan for Durham County and the Durham government based on a survey of land capability and use and on community goals;

(c) Draft recommended zoning ordinances, zoning maps, subdivision regulations and other land development controls in order to implement the comprehensive development plan;

(d) Review requests for changes or amendments to the zoning ordinance and make a report of its recommendations to the appropriate zoning agency;

(e) Review subdivision plans, conduct public hearings, and grant approval or disapproval of proposed plats; no subdivision plat may be filed or recorded by the register of deeds until it has been approved by the Planning Department;

(f) Provide assistance to the Citizens Planning Commission and to other Durham government departments in goal formulation, policy planning, programming, human resource planning, economic planning and data bank operations; and

(g) Perform any other related duties that the Board of Government may authorize or the Chief Administrative Officer may direct.

Sec. 5-28. *Establishment of Citizens Planning Commission; membership.*—The Board of Government shall establish a Citizens Planning Commission of seventeen members appointed to three-year staggered terms to take effect on July 1, 1976. The Board shall appoint one member from each of the sixteen electoral districts and a chairman-at-large.

The terms of the initial members of the Commission begin on July 1, 1976. Initially, the chairman and members appointed from Districts 1, 4, 7, 10, 13 and 16 shall serve terms of three years; members appointed from Districts 2, 5, 8, 11 and 14 shall serve terms of two years; and members appointed from Districts 3, 6, 9, 12 and 15 shall serve terms of one year. Thereafter, all terms are three years. No member may serve for more than two consecutive three-year terms.

Sec. 5-29. *Powers and duties of the commission.*—The Citizens Planning Commission:

(a) Shall develop and recommend to the Board of Government proposed statements of comprehensive community goals and objectives in the development of Durham County.

(b) Shall be afforded an opportunity to review all proposed development plans prepared by the Planning Department and all plans for the construction or expansion of public facilities and services by each department, committee, agency, board, commission and authority of the Durham government and to make recommendations on the plans prior to their implementation or adoption by the Board of Government. All departments, committees, agencies, boards, commissions and authorities shall cooperate with the Citizens Planning Commission and provide information and assistance necessary to the Commission's review.

(c) May review requests for amendments to the zoning ordinance and make recommendations to the appropriate zoning agency.

(d) May periodically make comprehensive reviews of the zoning ordinance, zoning map, subdivision regulations and other land development controls; and after its review may make recommendations to the Board of Government or Planning Department and propose amendments to the zoning ordinance, zoning map, subdivision regulations or other land development controls.

(e) May conduct public hearings on any matter that the Commission is authorized to consider except the review of requests for amendments to the zoning ordinance. The Commission is not authorized and

may not be authorized to hold hearings on amendments to the zoning ordinance.

In addition to the powers and duties specified in this section, the Commission may exercise any power or duty not inconsistent with this article that is conferred on planning commissions by general law.

Sec. 5-30 through 5-31. Reserved.

Sec. 5-32. *Authority to prescribe planning and zoning procedures.*— The Board of Government shall, by ordinance to become effective July 1, 1976, establish one or more agencies to perform the duties set out in Article 19 of Chapter 160A of the General Statutes of North Carolina that are not otherwise specifically provided for in this article. The Board may designate an officer or one or more agencies to hold any public hearings required by law to be held prior to the adoption or amendment of a zoning ordinance.

## CHAPTER 6. BOARDS AND COMMISSIONS

### Article 1. Continuation and Creation

Sec. 6-1. *General power of the Board of Government.*—The Durham government, except as limited by this charter or general law or special act of the General Assembly, may create new committees, agencies, boards, commissions and authorities and may abolish or modify any existing committees, agencies, boards, commissions and authorities.

### Article 2. General Provisions

Sec. 6-2. *Applicability.*—Except as expressly provided in this charter, each committee, agency, board, commission and authority established or continued by this charter or hereafter created is subject to the provisions of this article.

Sec. 6-3. *Equitable representation.*—It is the policy of the Durham government that all committees, agencies, boards, commissions and authorities established under this charter, local acts, general law or by ordinance or resolution of the Board of Government be constituted with memberships that equitably represent each race, sex, socio-economic group and geographic area of the county. It is the duty of the Board and any Durham government official who appoints members to committees, agencies, boards, commissions or authorities to implement this policy.

Sec. 6-4. *Terms and vacancies.*—Terms begin on February 1 unless the Board of Government provides otherwise. Vacancies are filled in the same manner as the original appointments.

Sec. 6-5. *Compensation.*—The Board of Government shall set the compensation and allowances, if any, to be paid members of committees, agencies, boards, commissions and authorities.

Sec. 6-6. *Officers and procedures.*—At its initial meeting and in February of each subsequent year, each committee, agency, board, commission and authority shall elect a chairman and may elect other