

A PROPOSED CHARTER for

THE CONSOLIDATED GOVERNMENT
OF WILMINGTON
AND NEW HANOVER COUNTY

WILMINGTON, NORTH CAROLINA

March 31, 1972

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PREFACE

89 The Wilmington-New Hanover Charter Commission was created by action
90 of the governing boards of the local governments in New Hanover County in
90 July, 1970. The Commission was composed of a chairman and eighteen mem-
91 bers. The chairman and four members were appointed jointly by the
92 Wilmington City Council and the New Hanover Board of County Commissioners.
92 These two bodies, acting separately, appointed five members each. The
95 towns of Carolina Beach, Kure Beach, and Wrightsville Beach each appointed
95 one member.
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97

A Citizens Review Committee of forty-two persons was appointed to
work with the Charter Commission. The governing boards of Carolina Beach,
Kure Beach, and Wrightsville Beach each appointed two members, and the
Wilmington City Council and the New Hanover Board of County Commissioners
each appointed eighteen.

The Charter Commission's Executive Director was Timothy Wood, who had
previously served as director of the Wilmington-New Hanover Planning Com-
mission. The Institute of Government of the University of North Carolina
at Chapel Hill served as consultant to the Commission and drafted the
proposed charter.

The names of the members of the Charter Commission, the Citizens
Review Committee, and the staff appear on the back cover of this publication.

The staff, with the cooperation of the consultant and local officials,
prepared thirty-eight technical reports on various functions and activities
of local governments in New Hanover County. Some fifty public hearings
and public meetings were held by the Commission and its committees to con-
sider the reports and preliminary drafts of the charter between October, 1970,
and March, 1972, when the Commission finished its work. A list of the re-

ports and additional details on the working procedures of the Commission may be found in Preparing for Tomorrow, the formal report of that Charter Commission that is being published separately.

The transition schedule set forth in the charter calls for The Consolidated Government of Wilmington and New Hanover County to be established on April 2, 1973, subject to approval of the voters and essential action by the 1973 General Assembly.

The voters of New Hanover County will vote on the proposed charter in a referendum to be held on November 7, 1972, at the time of the general election. If they approve the proposed plan of government, the 1973 General Assembly of North Carolina will be asked to enact the drafts of the charter and the necessary companion legislation contained in this document.

Requests for further information about the Charter Commission and for copies of reports and documents should be directed to the Commission, City Hall, Wilmington, N.C. 28401. Information and copies of some of the documents may be secured from the Institute of Government, University of North Carolina, Chapel Hill, N.C. 27514.

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PART I. THE CHARTER LEGISLATION

A. Draft of the Charter

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A BILL TO BE ENTITLED AN ACT TO CONSOLIDATE THE GOVERNMENTS OF THE CITY OF WILMINGTON AND NEW HANOVER COUNTY AND ENACT A CHARTER FOR THE CONSOLIDATED GOVERNMENT OF WILMINGTON AND NEW HANOVER COUNTY

The General Assembly of North Carolina enacts:

Section 1. The charter for The Consolidated Government of Wilmington and New Hanover County is as follows:

"CHAPTER 1. GENERAL PROVISIONS

Article 1. Establishment

Sec. 1-1. Consolidated government established. (a) The powers, duties, rights, privileges and immunities of the City of Wilmington are consolidated with those of the County of New Hanover. These consolidated powers, duties, rights, privileges and immunities are exercised and enjoyed by a government for New Hanover County known as The Consolidated Government of Wilmington and New Hanover County (herein called "the consolidated government"). The consolidated government is the legal successor to the separate governments of the City of Wilmington and the County of New Hanover. New Hanover County continues as a county of the State of North Carolina, and the consolidated 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 Wilmington is abolished as an independent municipal corporation.

Sec. 1-2. Boundaries. The consolidated government has jurisdiction and extends territorially throughout New Hanover County.

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

Article 2. Powers

Sec. 1-6. Corporate powers. The inhabitants of New Hanover County are

constituted a body politic and corporate under the name of The Consolidated Government of Wilmington and New Hanover 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 it; and may hold, invest, sell or dispose of such property and rights of property.

Sec. 1-7. Grant of county and municipal powers. Except as otherwise provided in this charter, the consolidated government and its officers and employees may exercise and enjoy (1) all the powers, duties, rights, privileges and immunities that counties at or after the effective date of this charter may exercise and enjoy under the Constitution and general laws of the State of North Carolina, and (2) all the powers, duties, rights, privileges and immunities that municipalities at or after the effective date of this charter may exercise and enjoy under the Constitution and general laws of the State of North Carolina.

Except as otherwise provided in this charter, the consolidated 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 consolidated government shall follow the procedures, if any, set out in this charter. If the charter contains a procedure that does not include acts necessary to exercise the power, duty, right, privilege or immunity, the consolidated government shall supplement the charter procedure by applicable procedures set out in other statutes. If no procedure is set out in the charter, the consolidated 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 consolidated government may proceed under either.

The procedure set out in any statute, when employed by the consolidated government, is deemed amended to conform to the structure and administrative organization of the consolidated government. If a statute refers to the governing body or the governing board of a county or municipality, the reference, except as otherwise provided in this charter, means the Board of Commissioners; and a reference to a specific official means the official of the consolidated government who most nearly performs the same duties performed by the specified official. If there is doubt as to the appropriate official, the Board of Commissioners shall by resolution designate an appropriate official to act as fully as if his office were specified in the statute.

Sec. 1-8 through 1-14. Reserved.

Article 3. Services of the New Hanover Service District and of Urban Service Districts

Sec. 1-15. Districts. The New Hanover Service District extends throughout New Hanover County. The Board of Commissioners may define urban service districts under procedures of general law. It is the intent of this charter that the Board will define as an urban service district the total area included immediately before the effective date of this charter within the City of Wilmington. Other urban service districts may be defined later as provided by the general laws of the state.

Sec. 1-16. Provision of services and allocation of costs. All services, facilities and functions provided or maintained by the consolidated govern-

ment shall be provided or maintained for the New Hanover Service District, except for:

- (1) Any service, facility or function provided or maintained only for one or more urban service districts, and
- (2) Any service, facility or function provided or maintained to a greater extent for one or more urban service districts than for the entire county.

If any service, facility or function is provided or maintained only for one or more urban service districts, the costs of providing or maintaining the service, facility or function for each urban service district shall be allocated to that district. If a service, facility or function is provided or maintained for an urban service district to a greater extent than for the New Hanover service district, the costs of providing or maintaining it at a higher level for the district shall be allocated to that district.

The costs of providing or maintaining for an urban service district a service, facility or function in addition to, or to a greater extent than those provided for the New Hanover Service District include operating, maintenance and repair expenses, capital improvement costs, and the appropriate share of debt service on bonds or notes issued to finance capital improvements associated with the service, facility or function.

The Board of Commissioners shall determine an equitable basis for allocating the costs of administrative services of the consolidated government among services, facilities and functions.

The budgets for the New Hanover Service District and for each urban service district, including the plan for providing services, allocating costs and raising necessary revenues, shall be prepared and adopted as provided in Article 1 of Chapter 8 of this charter.

CHAPTER 2. THE BOARD OF COMMISSIONERS

Article 1. Composition

Sec. 2-1. Number of members; how elected. The governing board of The Consolidated Government of Wilmington and New Hanover County is the Board of Commissioners. It has nine members, each elected at large.

Sec. 2-2. Term of office. Members of the Board of Commissioners are elected to two-year terms, assuming office on the first Monday of December following their election.

Sec. 2-3. Qualifications. To be eligible for election to and membership on the Board of Commissioners, a person must be eligible for election by the people to office under the Constitution of North Carolina.

Sec. 2-4. Compensation. The initial annual compensation of members of the Board of Commissioners is \$2400. Thereafter, the Board may by ordinance fix its own compensation and allowances, to become effective on the December 1 following the first regular consolidated government election following adoption of the ordinance. The Board shall cause to be published once at least ten days prior to its adoption any ordinance changing the compensation of its members. The Board may not enact an ordinance pursuant to this section during the 150 days immediately preceding a regular consolidated government election.

Sec. 2-5. Vacancies. A vacancy in the membership of the Board of Commissioners exists when a duly elected person refuses to qualify or when a member who has been elected and has qualified either dies, resigns or is declared mentally incompetent by a court of competent jurisdiction. The Board shall fill any vacancy by appointing a qualified person to the remainder of the unexpired term. If the person who vacated the seat was

elected as the nominee of a political party, the Board shall consult the county executive committee of that political party before filling the vacancy, but shall not be bound by the committee's recommendations. In order to qualify, the person appointed shall take and subscribe the oath required by Art. VI, Sec. 7, of the Constitution of North Carolina.

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

Article 2. Organization

Sec. 2-11. Organization meeting. The Board of Commissioners shall meet on the first Monday of December following each regular consolidated government election. At that meeting, if a quorum of the Board is present the Mayor and each member of the Board shall take and subscribe the oath required by Art. VI, Sec. 7, of the Constitution of North Carolina. A member absent from the organizational meeting may take and subscribe his oath at a later time.

Sec. 2-12. Mayor Pro Tempore; duties. The Board shall elect from among its members a Mayor Pro Tempore, to serve at its pleasure. The Mayor Pro Tempore shall preside at meetings of the Board of Commissioners in the absence or temporary disability of the Mayor. He is required to vote on all matters, unless excused by the Board of Commissioners from voting upon matters involving his official conduct or his personal or financial interest. When a matter involves his personal or financial interest, he shall state the nature and extent of his interest as a condition of being excused from voting.

He is a member of the Board of Commissioners 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 of Commissioners pursuant to this charter.

Sec. 2-13. Meetings. The Board of Commissioners shall fix the time, date and place of its regular meetings and shall hold at least one regular meeting each month.

The Mayor or in his absence the Mayor Pro Tempore, or any four members of the board 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 or in his absence the Mayor Pro Tempore, or any four members of the Board may call a meeting to deal with an emergency. The notice provisions of this section do not apply to those meetings.

Sec. 2-14. Rules of the Board of Commissioners. Consistent with this charter, the Board of Commissioners may adopt its own rules of procedure.

Sec. 2-15. Quorum; voting. Six members of the Board of Commissioners or five Board members and the Mayor constitute a quorum.

The vote of each member on each ordinance, resolution, motion or other action shall be recorded. Voting by proxy is not allowed.

The Board may excuse a member from voting, but only upon matters involving his official conduct or his personal or financial interest. When a matter involves a member's personal or financial interest, he shall state

the nature and extent of his interest as a condition of being excused from voting. In all other cases, a member who is present and fails to vote or who having been present has withdrawn from the meeting without being excused by the Board shall be recorded as having voted affirmatively.

No action may be taken except by a majority vote of the members of the Board and the Mayor present at any meeting. Except when a greater number is required by law, an affirmative vote of five members of the Board, or of four members of the Board and the Mayor, is required to adopt an ordinance or take any action having the effect of an ordinance, to authorize or commit the expenditure of public funds or to make, ratify or authorize any contract on behalf of the consolidated government.

Sec. 2-16 through 2-18. Reserved.

Article 3. Legislative Powers and Ordinance Procedure

Sec. 2-19. Legislative power. All legislative powers of the consolidated government are vested in the Board of Commissioners.

Sec. 2-20. Ordinance procedure. (a) No ordinance nor any action having the effect of an ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote of at least seven members of the Board of Commissioners, or of six members of the Board and the Mayor.

(b) The Board may, in its discretion, make any ordinance effective only if approved by a vote of the people. If the Board decides to require voter approval, it shall by resolution adopted at the same meeting call a referendum for the purpose of submitting the ordinance to a vote. The referendum shall be held within 90 days after the day on which the ordinance is adopted. The referendum shall be conducted pursuant to the provisions of Chapter 163 of the General Statutes of North Carolina applicable to counties.

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(c) Any order, motion, resolution or ordinance adopted shall be entered in full in the minutes of the Board.

CHAPTER 3. MAYOR

Article 1. Qualifications and Election

Sec. 3-1. Qualifications and term of office. To be eligible for election to and service as Mayor, a person must be eligible for election by the people to office under the Constitution of North Carolina. The qualified voters of the entire consolidated government elect the Mayor to a two-year term of office. He assumes office on the first Monday of December following his election.

Sec. 3-2. Compensation. The initial annual compensation of the mayor is \$3600. Thereafter the Board of Commissioners may by ordinance fix his compensation and allowances, to become effective on the December 1 following the first regular consolidated government election following adoption of the ordinance. The Board shall cause to be published once at least ten days prior to its adoption any ordinance changing the compensation of the Mayor. The Board may not enact an ordinance pursuant to this section during the 150 days immediately preceding a regular consolidated government election.

Sec. 3-3. 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 or is declared mentally incompetent by a court of competent jurisdiction. The Board shall fill any vacancy by appointing a qualified person to the remainder of the unexpired term. If the person who vacated the office was elected as the nominee of a political party, the Board shall consult the county executive committee of that political party before filling the vacancy, but shall not be bound by the committee's recommendations. In order to qualify, the person appointed shall take and

subscribe the oath required by Art. VI, Sec. 7, of the Constitution of North Carolina.

Sec. 3-4. 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 Commissioners, by a vote of two-thirds of its membership, determines that the Mayor is temporarily incapacitated, the Mayor Pro Tempore shall serve as acting mayor for the duration of the incapacity. A majority of the membership of the Board may determine that the Mayor's incapacity has terminated. The acting mayor shall have the powers, duties, rights, privileges and immunities of the office of Mayor.

Sec. 3-5 through 3-8. Reserved.

Article 2. Powers and Duties

Sec. 3-9. General powers and duties. The Mayor is the chief executive officer of the consolidated 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 Commissioners and has all the rights, powers, duties and responsibilities of a member of the Board.

The Mayor, or some officer or employee designated by the Board, shall sign each written contract or obligation of the consolidated government and any of its agencies, boards, commissions and authorities. No contract of the consolidated 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

Sec. 4-1. General applicability of state law; intent. Except as otherwise provided in this charter, Chapter 163 of the General Statutes of North Carolina as applicable to counties applies to the elections for the office of Mayor and for membership on the Board of Commissioners. If the provisions of Chapter 163 and this charter are inconsistent, the provisions of this charter apply. When used in Chapter 163, the word "county" or "counties" includes the consolidated government, and the office of Mayor and membership on the Board of Commissioners are county offices.

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CHAPTER 5. PERSONNEL AND CIVIL SERVICE

Article 1. Personnel

Sec. 5-1. Personnel system. The Board of Commissioners shall establish by ordinance a system of personnel administration. The system shall cover all employees of the consolidated government except as otherwise provided by law.

The system shall not cover (a) elected officials, (b) employees of the New Hanover County Board of Education and (c) employees of any 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 the Register of Deeds are appointed and discharged pursuant to the provisions of general law, but are in all other matters subject to the personnel ordinances of the consolidated government. Employees subject to state or federal civil service regulations and procedures may be made subject to the personnel ordinances of the consolidated government in any manner consistent with state or federal regulations and procedures. Officers and firemen of the police and fire departments of the Wilmington Urban Service District are covered by the system except as provided in Article 2 of this chapter.

The system of personnel administration may provide for the classification of positions, the manner and method of publicizing vacancies, employing and appointing personnel, the qualifications of employees, salaries, hours of employment, vacations, sick leave, special workman's compensation leave, job security, promotion, demotion, disciplinary procedures, transfer, layoff, 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. 5-2. Appointment and removal of employees; compensation. (a) The Manager, except as provided in this charter or by general law, appoints, suspends and removes all officers and employees of the consolidated government. He shall report every appointment and removal of a department head to the Board of Commissioners at the next regular Board meeting following the appointment or removal.

(b) The Board shall fix or approve all salaries and compensation.

(c) All employees and department heads shall perform the duties required of them by the Manager pursuant to general regulations of the Board.

(d) The Board, its members and the Mayor shall not take any part in the appointment, suspension or removal of department heads or other employees in the administrative service of the consolidated government, except as provided by this charter or by general law.

(e) The Board, its members and the Mayor shall deal with officers and employees of the administrative service solely through the Manager, and shall not give any specific orders to any appointee of the Manager, either publicly or privately.

Sec. 5-3. Consolidated government clerk. The Board of Commissioners shall appoint the consolidated government clerk who shall:

(a) Act as clerk to the Board and attend all meetings of the Board.

(b) Maintain a permanent record of all proceedings of the Board.

(c) Perform any duties assigned to a city clerk or a clerk to the

Board of County Commissioners under the general laws of the state

(d) Perform any other assignments that the Board may require.

Sec. 5-4 through 5-9. Reserved.

Article 2. Civil Service Commission

Sec. 5-10. Civil Service Commission established. There is a Civil

(a) The Service Commission consisting of five members. Each member must be a resident of the Wilmington Urban Service District. No member may be an officer or employee of the consolidated government, or the spouse of an officer or employee of the consolidated government or a former officer or employee of the police department or fire department.

The officers and firemen of the Wilmington Urban Service District fire department, by a majority vote, name one member. The officers of the Wilmington Urban Service District police department, by a majority vote, name one member. The Board of Commissioners appoint two members. These four members of the Commission name the fifth member.

The members of the Commission serve terms of three years unless removed by the appointing agency. A member may be removed by a two-thirds vote of all members of the agency appointing that member.

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

The Board of Commissioners shall set the compensation and allowances, if any, to be paid the members of the Commission. In March of each year, the Commission shall elect a chairman and may elect other officers. A majority of the members of the Commission constitutes a quorum. The Commission may determine its own rules of procedure.

Sec. 5-11. Jurisdiction. The Commission has jurisdiction as provided in this article over all the officers of the police department and the officers and firemen of the fire department of the Wilmington Urban Service District, except the chiefs of each. It has no jurisdiction over the officers or employees of any other department.

Sec. 5-12. Powers and duties. The Commission: (a) Shall establish reasonable requirements for employment and for examination of applicants. The Commission shall provide for the examination of all applicants. Examinations shall be competitive, open, and free to all persons meeting the Commission's requirements. The Commission shall establish rules and regulations for administration of examinations. Examinations shall be practical in character, shall be limited to matters that fairly test the relative ability of the applicant to discharge the duties of the position and shall include tests of mental and physical qualifications and health. No applicant may be examined concerning his political or religious opinion or affiliations.

(b) Shall publicize the times and places of examinations and the kinds of positions to be filled.

(c) Shall cause to be prepared and kept a register of persons passing the examinations, ranked according to their performance on the examination. The Manager, upon the recommendation of the chief, shall make appointments to each department from the register and under the eligibility rules and regulations established by the Commission.

(d) Shall make an annual report to the Board of Commissioners. The Board may prescribe the form and content of the report.

(e) May secure necessary staff services and request assistance in the performance of its duties from the Manager of the consolidated government.

(f) Is entitled to suitable rooms for its use. With the consent of the Board of Commissioners, the Commission may use the facilities of the consolidated government or any of its agencies, boards, commissions, or authorities for holding examinations or hearings.

Sec. 5-13. Promotions. The Civil Service Commission has no authority or duty with respect to promotions of officers or with respect to the appointment or removal of chiefs in the two departments.

Sec. 5-14. Political activity. No officer of the police department or officer or fireman of the fire department of the Wilmington Urban Service District may take part in any election or political function except by exercising his right to vote. The Commission shall dismiss any officer who it determines after investigation and hearing has violated this section.

Sec. 5-15. Disciplinary action. (a) Except as provided in Section 5-16 of this charter, an officer of the police department or an officer or fireman of the fire department of the Wilmington Urban Service District may be dismissed only for cause and with an opportunity to be heard in his own defense.

(b) The chief of the appropriate department may suspend, with or without pay, any officer of the police department or officer or fireman of the fire department charged with violating any rule or regulation of the department, for a period not to exceed thirty days. Within three days after making any suspension, the chief shall file with the Manager a written statement of the basis for the suspension. Within the same time, the chief shall give to the suspended officer or fireman a signed copy of the statement of the basis for the suspension. Within ten days after his suspension, the officer or fireman may file with the Manager a written request for a hearing. The Manager shall conduct the hearing within thirty days thereafter.

If the officer or fireman is suspended without pay and the Manager finds

that his suspension was not justified, or if the charges against him are dismissed, he shall be fully reimbursed for any loss of time or pay.

(c) The chief of the appropriate department may dismiss or demote any officer of the police department or officer or fireman of the fire department for violating any rule or regulation of the department of which the officer or fireman is a member. Within three days after making any dismissal or demotion, the chief of the department shall file with the Commission a written statement of the basis for the dismissal or demotion. A copy of the statement shall be given to the Manager and the officer or fireman in question.

Within ten days after his dismissal or demotion, the officer or fireman may request a hearing before the Civil Service Commission.

The Commission shall conduct a hearing within thirty days after receipt of the request.

If the Commission determines that the officer or fireman has not violated a rule or regulation of his department, the Commission shall reinstate him with pay for any lost time. In the conduct of its investigations, the Commission may subpoena witnesses, administer oaths and compel the production of evidence. Its orders are enforceable pursuant to section 10-15 of this charter.

Any officer found guilty by the Commission may appeal to a court of competent jurisdiction. The trial upon appeal shall be governed by the provisions of Article 33, Chapter 143 of the General Statutes of North Carolina pertaining to Judicial Review of Decisions of Certain Administrative Agencies except that for purposes of G. S. 143-309 the person seeking review must file a petition in the Superior Court of New Hanover County.

Sec. 5-16. Probationary police and firemen. Police officers and firemen

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may be hired on a probationary basis for a period not to exceed eighteen months. During the probationary period, the Manager may dismiss any officer or fireman upon the recommendation of his chief. At the end of any officer's or fireman's probationary period, his appointment becomes permanent.

Sec. 5-17. Seniority rights during military service. If any member of the fire department or the police department of the Wilmington Urban Service District leaves his department for military service, he shall retain during the time of his military service all rights of seniority and shall, upon his honorable discharge from military service, be immediately reinstated to his former position unless his physical condition has been so impaired as to make him incapable of performing his former duties.

Sec. 5-18. Compensation. The Board of Commissioners shall fix the salaries of all officers of the police department and officers and firemen of the fire department of the Wilmington Urban Service District.

CHAPTER 6. GENERAL ADMINISTRATION

Article 1. Administrative Organization

Sec. 6-1. Initial administrative organization. The initial administrative organization of the consolidated 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. 6-2. Administrative reorganization. Except as restricted by this charter or the general law of the state, the Board of Commissioners may reorganize the administrative structure of the consolidated government by creating, consolidating, reorganizing and abolishing offices, positions, departments, agencies, boards, commissions and authorities of the consolidated government. In a plan of reorganization, the Board may impose additional powers and duties on any office, position, department, agency, board, commission or authority. Except by amendment of this charter, however, no office, position, department, 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. 6-3 through 6-5. Reserved.

Article 2. Manager

Sec. 6-6. Appointment; qualifications; term. The Board of Commissioners shall appoint the Manager to hold office at the pleasure of the Board. The Manager shall be appointed with regard to merit only and need not be a resident of the consolidated government when appointed. The Manager shall devote his entire time to the consolidated government and may not actively engage in any other business.

Sec. 6-7. Duties and responsibilities. The Manager is the administrative head of the consolidated government. He shall:

(a) See that the laws of the state and the ordinances, resolutions, rules and regulations of the Board of Commissioners are faithfully executed and enforced within the county.

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

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

(d) Appoint and suspend or remove all consolidated government officers and 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 to the Board.

(f) Direct and supervise the administration of all departments, and the staffs of all authorities, boards, offices, agencies and commissions of the consolidated government under general policies adopted by 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. 6-8. Absence or disability. The Board of Commissioners may designate any other person to serve as acting manager while the Manager is sick, absent from the county or otherwise unable to perform the duties of his office. A person designated as acting manager shall have all the power and authority of the Manager while serving in that capacity and shall receive compensation as

determined by the Board. Neither the Mayor nor any member of the Board may serve as acting manager.

Sec. 6-9 through 6-12. Reserved.

Article 3. Continuing Offices

Sec. 6-13. Sheriff continued. The office of Sheriff of New Hanover County continues within the consolidated government as provided in the Constitution and laws of North Carolina.

Sec. 6-14. Duties continued. The duties of the Sheriff of New Hanover County continue within the consolidated government as provided in the Constitution and laws of North Carolina.

Sec. 6-15. Register of Deeds continued. The office of Register of Deeds of New Hanover County continues within the consolidated government as provided in the laws of North Carolina.

Sec. 6-16. Duties continued. The duties of the Register of Deeds of New Hanover County continue within the consolidated government as provided in the laws of North Carolina.

Sec. 6-17. Coroner continued. The office of Coroner of New Hanover County continues within the consolidated government as provided in the laws of North Carolina.

Sec. 6-18. Duties continued. The duties of the Coroner of New Hanover County continue within the consolidated government as provided in the laws of North Carolina.

Sec. 6-19. Medical Examiner continued. The office of Medical Examiner of New Hanover County continues within the consolidated government as provided in the laws of North Carolina.

Sec. 6-20. Duties continued. The duties of the Medical Examiner of

New Hanover County continue within the consolidated government as provided in the laws of North Carolina.

Sec. 6-21. County Auditor and Office. The Office of Auditor of New Hanover County is continued until July 1, 1973, at which time the Office is abolished. The elected New Hanover County Auditor serving on the effective date of this charter is continued in office without change of duties until July 1, 1973. The Board of Commissioners shall provide for the continued employment of the elected County Auditor, without any reduction in compensation, from July 1, 1973, until December 2, 1974, when the term of office to which he was elected would have ended except for the abolition of the Office. The Board may fix his duties during the period between July 1, 1973, and December 2, 1974.

Sec. 6-22 through 6-24. Reserved.

Article 4. Special Departmental Appointments

Sec. 6-25. Police Chief. The Manager shall nominate and the Board of Commissioners shall appoint the Chief of Police of the Wilmington Urban Service District police department. In making a nomination or appointment, due consideration shall be given to fitness and qualifications and, with respect to employees of the police department, their length of service. The Chief of Police may be removed by the Board upon the recommendation of the Manager.

Sec. 6-26. Fire Chief. The Manager shall nominate and the Board of Commissioners shall appoint the Fire Chief of the Wilmington Urban Service District fire department. In making a nomination or appointment, due consideration shall be given to fitness and qualifications and, with respect to employees of the fire department, their length of service. The Fire Chief may be removed by the Board upon the recommendation of the manager.

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Sec. 6-27. Legal department. The Board of Commissioners shall appoint
a chief legal officer to provide legal services for the consolidated
government. The chief legal officer, with the approval of the Board, may
appoint necessary assistants and also may secure special counsel to pro-
vide legal services of a special or extraordinary nature.

CHAPTER 7. BOARDS AND COMMISSIONS

Article 1. General Provisions

Sec. 7-1. Existing boards and commissions continued. All committees, agencies, boards, commissions and authorities, however denominated, heretofore created pursuant to general law or special acts of the General Assembly, or by resolutions or ordinances of the City Council of Wilmington or the Board of County Commissioners of New Hanover County, or by joint resolutions of these two governing bodies are continued except as expressly provided by this charter or other acts of the General Assembly.

Sec. 7-2. General power of Board of Commissioners. The consolidated 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.

Sec. 7-3 through 7-5. Reserved.

Article 2. Housing Authority

Sec. 7-6. Authority continued; operate under general law. The Housing Authority of the City of Wilmington, heretofore created and existing, is continued by this charter under the name of The Wilmington-New Hanover Housing Authority. The Authority operates under and is subject to the provisions of the general laws of the state, except as provided in this charter.

Sec. 7-7. Mayor appoints Authority. The Mayor shall appoint members of the Housing Authority.

Sec. 7-8 through 7-10. Reserved.

Article 3. Museum Board of Trustees

Sec. 7-11. Board continued. The Wilmington-New Hanover Museum Board of Trustees, heretofore created and existing, is continued by this charter under the same name.

Sec. 7-12. Board membership. The Board of Trustees consists of twelve members, appointed by the Board of Commissioners to three-year staggered terms. In July of each year, the Board of Trustees shall hold an organizational meeting for the purpose of electing to terms of one year a chairman and a vice chairman. Six members shall constitute a quorum.

Sec. 7-13. Powers and duties. Subject to the general direction and approval of the Board of Commissioners, the Board of Trustees:

(a) Shall take full charge and manage and control all artifacts and documents used by the Wilmington-New Hanover Museum.

(b) May acquire any artifacts and documents needed for the operation of the museum.

(c) May make regulations for the government of the museum.

(d) Shall appoint a Director and fix his salary. The Director shall appoint all other employees.

Sec. 7-14 through 7-17. Reserved.

Article 4. Planning and Zoning Commission

Sec. 7-18. Commission continued; operate under general law. The Wilmington-New Hanover Planning Commission, heretofore created and existing, is continued by this charter under the same name. Except as provided in this charter, the Commission shall operate under the provisions of the general laws of the state.

Sec. 7-19. Mandatory referrals. No street, no park or other open space

no public building or structure and no publicly owned public utility may be constructed by the consolidated government or any department, agency, board, commission or authority of the consolidated government until the location and extent thereof have been submitted to and reviewed by the Planning Commission as provided in this section.

The consolidated government may not widen, narrow, relocate or vacate any street, nor shall it or any of its agencies, boards, commissions or authorities change the use of, accept, acquire, sell or lease any real property or structure or interest therein until the proposed action has been submitted to and reviewed by the Planning Commission as provided in this section.

The Planning Commission shall have 30 days to review and submit its comments to the submitting authority. A longer period of study, however, may be granted by the department, agency, board, commission or authority making the submission.

The Board of Commissioners may, by resolution adopted by the affirmative vote of seven members of the Board or of six members of the Board and the Mayor, waive the requirements of this section or shorten the period of review available to the Planning Commission, for any individual submission or, on the recommendation of the Planning Commission, for special classes of submissions.

Sec. 7-20. Capital improvement program. The Planning Commission shall prepare annually by May 1 a Capital Improvement Program containing a description of major capital improvements proposed to be undertaken by the consolidated government and each of its departments, agencies, offices, boards, commissions and authorities within the next six fiscal years. The Program shall show the estimated cost of each improvement, the proposed

method of financing, the order of priorities and the projected operating and maintenance expense anticipated to be associated with each capital improvement for each of the next six fiscal years.

The Planning Commission shall submit its recommended Capital Improvement Program to the Manager. The Manager shall transmit the Capital Improvement Program to the Board of Commissioners at the same time he submits the recommended annual budget.

Sec. 7-21 through 7-22. Reserved.

Article 5. Wilmington-New Hanover Public Library

Sec. 7-23. Board continued. The Board of Public Library Trustees, heretofore created and existing, is continued by this charter under the name of the Board of Trustees of the Wilmington New Hanover Public Library.

Sec. 7-24. Operate under general law. The library operates under the provisions of the general laws of the state.

Sec. 7-25 through 7-27. Reserved.

Article 6. Redevelopment Commission

Sec. 7-28. Commission continued. The Wilmington Redevelopment Commission heretofore created and existing, is continued by this charter under the same name.

Sec. 7-29. Operate under general law. Except as provided in this article the Wilmington Redevelopment Commission operates under and is subject to the provisions of general law.

Sec. 7-30. Appointment of Commission. Members of the Redevelopment Commission shall be residents of the Wilmington Urban Service District.

Sec. 7-31 through 7-33. Reserved.

Article 7. Water and Sewer Authority

Sec. 7-34. Authority continued; operate under general law. The Lower Cape Fear Water and Sewer Authority, heretofore created and existing, is continued by this charter under the same name. Except as provided in this charter the Authority operates under the provisions of the general laws of the state.

Sec. 7-35. Board of Commissioners may act. The Board of Commissioners of the consolidated government, acting alone, may adopt any resolution and take any action that the governments of New Hanover County and the City of Wilmington, in the absence of consolidation, could have taken under the provisions of Chapter 162A of the General Statutes of North Carolina.

Sec. 7-36 through 7-38. Reserved.

Article 8. Public Schools

Sec. 7-39. Board of Education not affected. Except as provided in sections 7-19 and 7-20 of this charter, nothing in this charter shall affect the powers or duties of the New Hanover County Board of Education. With respect to the Board of Education and all other public school matters, the powers, duties and obligations previously vested in the government of New Hanover County are vested in the consolidated government.

CHAPTER 8. FINANCE

Article 1. Accounting, Budgeting and Fiscal Control

Sec. 8-1. Application of general law. From the date this charter becomes effective until July 1, 1973, the general law applying to municipalities in North Carolina and the general law applying to counties in North Carolina govern the administration of transitional budgets of the City of Wilmington and New Hanover County, respectively, pursuant to Sec. 12-9 of this charter. For the fiscal year 1973-74 and thereafter the consolidated government is subject to the Local Government Finance Act, Chapter 159 of the General Statutes of North Carolina, except as modified in this chapter.

Sec. 8-2. Preparation and adoption of budget. The manager is responsible for preparing the annual budget as provided in general law, except that he shall prepare the budget in separate parts: one for the New Hanover Service District (county-wide) and one for each urban service district. Each part as prepared by the manager and as adopted by the Board of Commissioners shall be balanced.

The costs of providing each service, function or activity shall be allocated (a) to the part of the budget (New Hanover Service District or an urban service district) corresponding to the district in which the service, function or activity is to be provided or (b) in proportion to the extent to which each is to be provided in the event a higher level of some service, function or activity is to be provided in an urban service district than is to be provided county-wide.

Each urban service district is responsible for the financing of its appropriate share of debt service on all bonds issued by the consolidated

government and used to finance capital facilities associated with providing or maintaining services, facilities and functions for the urban service district in addition to or to a greater extent than those provided or maintained for the entire county.

Urban service district expenses shall be paid from special taxes levied within each urban service district or from other revenues allocated to each urban service district under the provisions of this charter.

Sec. 8-3 through 8-5. Reserved.

Article 2. Property Tax Administration

Sec. 8-6. Application of general law. Property in New Hanover County shall be listed, appraised and assessed and taxes on property shall be levied and collected as provided by general law for counties, except as otherwise provided in this charter.

Sec. 8-7 through 8-10. Reserved.

Article 3. Local Improvements

Sec. 8-11. Authority. The consolidated government has the authority granted to counties and cities by the general laws of the state with respect to local improvements, including without limitation, grading, regrading, widening, paving and repaving public streets and alleys; constructing, reconstructing, and altering sidewalks, curbs, gutters and drains in the public streets and alleys; and laying or relaying sewer and water lines. The authority granted by this article is in addition to that granted by any other law.

Sec. 8-12. Alternative procedures and powers. In making special assessments the consolidated government may employ the following procedures:

- (a) The Board of Commissioners may order the making of any local

improvement and assess the cost thereof, except the consolidated government's portion, against only a limited number of benefited properties if the owners of those properties submit a petition asking that the improvement be made and that the total amount to be assessed for the improvement be assessed only against their properties.

(b) The Board of Commissioners may order the making of any local improvement and assess the cost thereof, except the consolidated government's portion, wholly against the property abutting one side of a street or streets when (1) the Board has received a petition from a majority of the owners of property on the side of the street or streets to be assessed who own a majority of the lineal frontage thereon, and (2) the Board finds that the land abutting the other side of the street or streets is of such a nature or is devoted to such a purpose that special assessments against it could not be made, or, if made, would probably exceed the value of the land assessed.

(c) If, in the Board's judgment, which is conclusive, the property to be assessed will be benefited in an amount at least equal to the assessment, a petition for local improvements is not necessary and the Board may order the making of any local improvement and assess the cost thereof against benefited properties in the following cases:

(1) When a street or part of a street is unsafe; or 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 the improvement of a street or part of a street is necessary to connect a paved street, or portion thereof, with a paved highway; or 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 a bridge; or the widening of any street or part of a street is necessary to accommodate present and anticipated volumes of traffic.

(2) When a street or part of a street, or any property, is without storm sewer or other surface drainage improvements, and storm sewer or other surface drainage should be provided in the public interest.

(3) When a street or part of a street is without sidewalks and sidewalks should be provided in the public interest.

(d) If the Board determines that the public interest requires repair of a sidewalk or of a driveway within the public right of way, the Board may order the making of the repair and assess all, or part, of the total cost against the property abutting the sidewalk or driveway repaired. At least thirty days before exercising this authority, the Board shall cause written notice to be given to the abutting property owner personally or by registered or certified mail to his address as shown on the tax records. The notice shall state that the property owner is required to make the repair at his own expense in conformity with the standards adopted by the consolidated government, and that, if he fails to make the repair within thirty days after notice is served, the consolidated government thereupon may make the repair and assess the cost. If the Board finds that any sidewalk or driveway is in need of immediate repair, the Board may adopt a resolution setting out its finding and directing that the repair be made immediately and that the cost be assessed against the abutting property without prior notice to any property owner affected.

(e) If the Board orders the making of a street or sidewalk improvement, it may also order each owner of a lot abutting the part of the street

to be improved to connect his lot by means of laterals with water mains or sewer lines located in the street prior to the making of the street and sidewalk improvements. The Board shall cause written notice of the order to install laterals to be given to each owner of abutting property personally or by registered or certified mail to his address as shown on the tax records. If any owner fails to install laterals within thirty days after the notice is served, the Board may direct that the laterals be installed and assess the cost against the lot(s) served.

Sec. 8-13. Planting strip and driveway maintenance. It is the responsibility of the abutting property owner to maintain any property, including sidewalks and driveways, between the property line and the curb, pavement or traveled way of a street.

Sec. 8-14 through 8-17. Reserved.

Article 4. Limits on Taxation

Sec. 8-18. Property taxation authority and limitations. The consolidated government may levy taxes on property to support any service, facility or function it is authorized to undertake by this charter or by the general laws of the state for cities or counties. The property tax levied throughout its jurisdiction shall not be levied at an effective rate exceeding seventy-five cents on the one hundred dollars of appraised valuation. The property tax levied within any urban service district for the support of purposes of the district shall not be levied at an effective rate exceeding one dollar and fifty cents on the one hundred dollars of appraised valuation.

These limitations do not apply to property taxes levied (a) for debt service on general obligation bonds and notes of the consolidated government, (b) for the support of the public schools, or (c) pursuant to a special vote of the people.

The consolidated government is subject to these limitations only and not to any imposed on counties or cities by the general laws of the state.

Sec. 8-19. Privilege license taxation. The consolidated government may levy throughout New Hanover County privilege license taxes as authorized for counties under the general law of the state. The consolidated government may levy within any urban service district privilege license taxes as authorized for cities and towns under the general law of the state.

Sec. 8-20. Dog taxes. The consolidated government may levy throughout New Hanover County the county dog tax authorized for counties by general law. It may not levy the dog tax authorized for cities in G.S. 160A-212.

Sec. 8-21. CATV franchise tax. The consolidated government may levy throughout New Hanover County the cable television franchise tax authorized by G.S. 160A-214.

Sec. 8-22. Motor vehicle license tax. The consolidated government may levy within any urban service district the motor vehicle license tax authorized by G.S. 20-97.

Sec. 8-23. Taxicab license tax. The consolidated government may levy within any urban service district the taxicab license tax authorized by G.S. 20-97.

Sec. 8-24 through 8-27. Reserved.

Article 5. Allocation of Revenues

Sec. 8-28. Revenues allocated to the New Hanover Service District. The following revenues shall be allocated to the New Hanover Service District:

- (a) Excise stamp tax. The excise stamp tax on conveyances levied by Article 8E of Chapter 105 of the General Statutes of North Carolina.
- (b) Privilege license tax. Proceeds of any privilege license taxes levied throughout New Hanover County as authorized in Sec. 8-19 above.

(c) Dog tax. Proceeds of any dog tax levied as authorized in Sec. 8-20 above, which may be used for any county-wide purpose.

(d) CATV franchise tax. Proceeds of any cable television tax levied as authorized in Sec. 8-21 above.

(e) Other. All revenues that are not otherwise explicitly allocated in this article.

Sec. 8-29. Revenues allocated to urban service districts. (a) Powell Bill distribution. State street-aid funds, appropriated from the State Highway Fund pursuant to G.S. 136-41.1 to -41.3, shall be allocated to each urban service district on the same basis as if each district were a city or town.

(b) Franchise tax receipts. The share of the state franchise tax on public service companies levied under G.S. 105-116(a) and G.S. 105-120(d) that is due the consolidated government by reason of the sale of public service company commodities and services within any urban service district shall be allocated to the urban service district in which it was collected.

(c) Traffic penalties. Civil penalties collected for violations of urban service district traffic ordinances shall be allocated to the urban service district in which the violation occurred.

(d) Taxicab license tax. The proceeds from any taxicab license tax levied pursuant to G.S. 20-97 shall be allocated to the urban service district in which the taxicab has taxable situs.

(e) Motor vehicle license tax. The proceeds from any motor vehicle license tax levied pursuant to G.S. 20-97 shall be allocated to the urban service district in which the taxed vehicle has taxable situs.

(f) Privilege license taxes. The proceeds from any privilege license tax levied only in an urban service district shall be allocated to the district in which it is levied.

Sec. 8-30. Revenues to be allocated by the Board of Commissioners.

The following revenues are to be allocated among the New Hanover Service District and any urban service districts in the discretion of the Board of Commissioners:

(a) Beer and wine crown tax receipts. The entire portion of the beer and wine crown tax returned to New Hanover County under the provisions of G.S. 105-113.86(p), save the portions due any city or town within New Hanover County.

(b) New Hanover sales tax. The entire portion of the New Hanover sales tax receipts distributed to local governments in New Hanover County under the provisions of G.S. 105-472, save the portions due any city or town within New Hanover County.

(c) ABC revenue. The entire profits distributed from ABC stores in New Hanover County, save the portions due any city or town within New Hanover County.

Sec. 8-31. Intangibles taxes for distribution. The intangibles tax proceeds distributed to New Hanover County under G.S. 105-213 shall be divided among the New Hanover Service District, any urban service district and any cities or towns as if the New Hanover Service District were a county and each urban service district were a city.

Sec. 8-32. Arrest fees. The arrest fee provided for in G.S. 7A-304(a)(1) shall be allocated between the New Hanover Service District and each urban service district in proportion to law enforcement expenditures in each district in the previous fiscal year.

Sec. 8-33. Fees and charges. All fees and charges imposed by the consolidated government for a particular service, facility or function shall be allocated to the service district in which the service, facility or function

is provided or maintained. If a particular service, facility or function is provided or maintained for the New Hanover Service District and to a greater extent for one or more urban service districts, the Board of Commissioners shall determine the proportionate allocation of the fee or charge.

Sec. 8-34 through 8-35. Reserved.

Article 6. Indebtedness

Sec. 8-36. Authority to issue bonds. The consolidated government may issue its general obligation or revenue bonds for any purpose for which either county or municipal governments in North Carolina are authorized to issue general obligation or revenue bonds under the general laws of the state.

Sec. 8-37. Procedure for issuing bonds. In issuing its general obligation and revenue bonds the consolidated government is subject to the Local Government Finance Act, Chapter 159 of the General Statutes of North Carolina. However, if a proposed bond issue is required by law to be submitted to and approved by the voters of the consolidated government, and if the proceeds of the proposed bond issue are to be used in connection with a service, facility or function that is or, if the bond issue is approved, will be financed, provided or maintained only for one or more urban service districts, the proposed bond issue must be approved concurrently by a majority of those voting throughout the entire consolidated government and by a majority of the total of those voting in all the affected or to be affected urban service districts.

Sec. 8-38. Debt limitations. The net indebtedness in the form of general obligations of the consolidated government for school purposes may not exceed eight per cent of the appraised valuation of taxable property in the

county. The net indebtedness in the form of general obligations of the consolidated government for all purposes other than for schools or water, sewerage, gas and electric purposes may not exceed eight per cent of the appraised valuation of taxable property in the county. No other debt limitations applying to counties or cities in North Carolina apply to the consolidated government.

Sec. 8-39 through 8-41. Reserved.

Article 7. Special Financing Powers

Sec. 8-42. Watershed improvement tax. The Board of Commissioners may exercise all authority under Article 3 of Chapter 139 of the General Statutes of North Carolina. The Board, by resolution, and without the election provided for in G.S. 139-39 and G.S. 139-40, may levy, collect and expend funds derived from a special watershed improvement tax, not to exceed five cents on each one hundred dollars assessed valuation of property.

Sec. 8-43. Industrial development appropriations. The Board of Commissioners may appropriate annually a sum, not exceeding fifty thousand dollars, to be used for the purpose of obtaining and encouraging industrial development, agricultural development or beach and resort development in New Hanover County and for advertising in connection with this purpose.

CHAPTER 9. CITIES AND TOWNS

Article 1. Relationship to Consolidated Government

Sec. 9-1. Included within New Hanover service district. The citizens of each city and town in New Hanover County are citizens of the consolidated government and are entitled to the services, facilities and functions provided or maintained by the consolidated government for citizens of the New Hanover Service District.

Sec. 9-2. Limitation on powers. (a) Except as expressly provided, this charter does not abridge the authority of any city or town to enjoy and be subject to (1) all the powers, duties, rights, privileges and immunities that cities or towns enjoy and are subject to at or after the effective date of this charter under the Constitution and general laws of the State of North Carolina and (2) all the powers, duties, rights, privileges and immunities that the city or town at or after the effective date of this charter enjoys and is subject to under its charter.

(b) No city or town may annex territory included within an urban service district of the consolidated government unless the Board of Commissioners by resolution agrees.

Sec. 9-3. Cooperation authorized. The consolidated government and its agencies, boards, commissions and authorities and any of the cities or towns may cooperate with each other pursuant to the General Statutes of North Carolina.

Sec. 9-4 through 9-11. Reserved.

Article 2. Consolidating a City or Town with The Consolidated Government

Sec. 9-12. Authority. At any time after the effective date of this

compensation to be paid by the consolidated government for the land. The procedure for determining compensation shall follow as closely as practical the provisions of Article 2 of Chapter 40 of the General Statutes of North Carolina. The authority granted by this paragraph may not be used to condemn land owned by any other governmental unit or agency or by any railroad or public utility company.

(c) The consolidated government may exercise the power of eminent domain by any of the following procedures or by any other procedure available to cities and counties by general law:

- (1) Those set out in Article 11 of Chapter 160A of the General Statutes of North Carolina, or
- (2) Those set out in Article 2 of Chapter 40 of the General Statutes of North Carolina, or
- (3) Those set out in Article 9 of Chapter 136 of the General Statutes of North Carolina.

Sec. 10-7 through 10-10. Reserved.

Article 3. Formation of Other Political Subdivisions

Sec. 10-11. Procedure; Board of Commissioners' consent. The Board of Commissioners' consent must be obtained before any political subdivision, whether a municipal corporation, special district or other similar tax-levying or revenue-raising governmental agency, board, commission, authority or entity, may be established to operate within the jurisdiction of the consolidated government. Any person petitioning a state, county or municipal governmental body for the creation of a political subdivision within the jurisdiction of the consolidated government shall file with the Board of Commissioners a certified copy of the petition at the same time he files the petition with the other governmental body. If the Board of Commissioners

fails to adopt a resolution either withholding or giving its consent to the petition by its second regular meeting following receipt of the petition, it shall be deemed to have consented. If the Board of Commissioners withholds its consent, the petition and any other action taken on it by any other governmental body is of no effect, and no similar petition may be submitted until six months after the resolution withholding its consent was adopted. If the Board of Commissioners consents, the petition shall be acted on according to the procedure established by general law for the creation of the proposed political subdivision.

Sec. 10-12 through 10-14. Reserved.

Article 4. Subpoenas

Sec. 10-15. Enforcement of subpoenas. If a person fails or refuses to obey a reasonable order for attendance or for the production of evidence, issued pursuant to this charter by the Board of Commissioners, the Mayor or the Civil Service Commission, the issuing authority may apply to a court of competent jurisdiction for an order requiring that its order be obeyed. No testimony of any witness before the issuing authority in any investigation may be used against the witness on the trial of any criminal prosecution other than for false swearing committed on the examination. If any person, while under oath at an investigation of the Board, the Mayor or the Civil Service Commission, willfully swears falsely, he is guilty of a misdemeanor.

Sec. 10-16 through 10-17. Reserved.

Article 5. Other Powers

Sec. 10-18. Port facilities. The consolidated government may acquire, by purchase or otherwise, construct, improve, enlarge, extend and equip

any property relating to or deemed necessary or advisable for the promotion, development, maintenance or operation of port facilities of the county, including, without limitation, warehouses, docks and loading facilities, conveyor equipment, and other storage, terminal and handling facilities. The consolidated government may lease this property to any public agency or instrumentality or to any private person, firm or corporation and under terms and conditions and for periods set by the Board of Commissioners.

CHAPTER 11. CHANGES IN FORM AND STRUCTURE OF GOVERNMENT

Sec. 11-1. Authority to modify the form and structure of government.

The voters of the consolidated government may amend this charter to modify the form and structure of the consolidated government with respect to matters specified under G. S. 160A-101.

Sec. 11-2. Method of modifying the form and structure of government.

Modification of the form and structure of the consolidated government shall be made pursuant to the procedures set forth in Part 4 of Article 5 of Chapter 160A of the General Statutes of North Carolina except that no modification may become effective until approved by the voters in a referendum.

CHAPTER 12. CONTINUATION AND TRANSITION

Article 1. Continuation

Sec. 12-1. Continuation of ordinances and regulations. All ordinances and resolutions of New Hanover County and the City of Wilmington that are in force immediately before the effective date of this charter and that are not inconsistent with this charter continue in full force and effect within the area in which they applied. They become ordinances and resolutions of the consolidated government and shall continue in force until repealed or amended by the Board of Commissioners. All orders, rules and regulations made by any officer, agency, board, commission or authority of New Hanover County and the City of Wilmington that are not inconsistent with this charter also continue in force within the area in which they applied until repealed or amended by the appropriate officer, agency, board, commission or authority of the consolidated government.

Sec. 12-2. Continuation of hearings and proceedings. All petitions, hearings and other proceedings pending before any officer, office, department, agency, board, commission or authority of New Hanover County and the City of Wilmington continue in full force and effect, even if the officer, office, department, agency, board, commission or authority has been abolished or consolidated by this charter. The petition, hearing, or proceeding shall be completed by the officer, office, department, agency, board, commission or authority of the consolidated government that succeeds to the powers, duties, rights, privileges and immunities of the abolished or consolidated agency.

Sec. 12-3. Transfer of assets and liabilities. On the effective date of this charter: (a) All property, real and personal and mixed, belonging

to New Hanover County and the City of Wilmington vests in, belongs to and is the property of the consolidated government.

(b) All judgments, liens, rights of liens and causes of action of any nature in favor of any of the governments listed in subsection (a) vest in and remain and inure to the benefit of the consolidated government.

(c) All rentals, taxes, assessments and any other funds, charges or fees owing to any of the governments listed in subsection (a) are owed to and may be collected by the consolidated government.

(d) Any action, suit, or proceeding pending against, or having been instituted by, any of the governments listed in subsection (a) is not abated by this charter or by consolidation, but shall be continued and completed in the same manner as if consolidation had not occurred. The consolidated government is a party to all these actions, suits and proceedings in the place and stead of the merging government and shall pay or cause to be paid any judgment rendered against it in any of these actions, suits or proceedings. No new process need be served in any of the actions, suits or proceedings.

(e) All obligations of the governments listed in subsection (a), including outstanding indebtedness, is assumed by the consolidated government, and all the obligations and outstanding indebtedness are constituted obligations and indebtedness of the consolidated government. The full faith and credit of the consolidated government is deemed to be pledged for the punctual payment of the principal of and interest on all general obligation bonds and bond anticipation notes of the listed governments, and all the taxable property within the consolidated government is and shall remain subject to taxation for these payments.

Sec. 12-4. Continuation of officers. Except as otherwise provided in

this charter, all officers, departments, agencies, boards, commissions and authorities of New Hanover County and the City of Wilmington shall continue to perform their respective functions after the effective date of this charter, until their successors have been appointed or provided for by the consolidated government.

Sec. 12-5. Continuation of employees. On the effective date of this charter, all employees of the governments of New Hanover County and the City of Wilmington become employees of the consolidated government. No employee may sustain any reduction in salary on account of consolidation, nor may the Board of Commissioners impair or diminish the rights, benefits, privileges or opportunities of any employee of the consolidated governments under any retirement or pension plan in effect immediately before the effective date of this charter.

Sec. 12-6. Officers and offices of boards and agencies. Except as otherwise provided in this charter, the officers, members and employees of all agencies, boards, commissions and authorities continue as officers, members and employees of those agencies, boards, commissions and authorities and shall continue to perform the duties and enjoy the powers, rights, privileges and immunities they possessed immediately prior to the effective date of this charter. Nothing in this section impairs the authority of the consolidated government with respect to those boards, commissions, authorities and agencies or to any of their officers, members or employees.

Article 2. Transition

Sec. 12-7. Effective date. The Consolidated Government of Wilmington and New Hanover County becomes effective April 2, 1973.

Sec. 12-8. Initial Mayor and members of the Board. The five members of

the City Council of Wilmington and the five members of the New Hanover Board of County Commissioners serving immediately prior to the effective date of the consolidated government are the initial Mayor and members of the Board of Commissioners of the consolidated government. At 11:00 a.m. on April 2, 1973, they shall meet in the Commissioners Room of the New Hanover Court House for the purpose of electing from among themselves the initial Mayor and taking the oath of office. The person who was Mayor of Wilmington immediately prior to the effective date of the consolidated government shall preside until the initial Mayor of the consolidated government is elected. The Mayor of the consolidated government shall take and subscribe the oath of office and cause the oath of office to be administered to the remaining nine persons as members of the initial Board of Commissioners. Following the taking of the oaths of office, the Board of Commissioners shall elect from its membership a Mayor Pro Tempore. The initial terms of the Mayor and the members of the initial Board of Commissioners end on the first Monday in December of 1973, at which time their successors, who shall have been elected in a special election as provided in Sec. 12-10 of this article, take office.

Sec. 12-9. Transitional budgets for 1972-73. The Board of Commissioners and officers of the consolidated government shall administer the 1972-73 budgets as adopted by New Hanover County and the City of Wilmington in accordance with their terms. The Board of Commissioners may, however, amend the 1972-73 budget of each merging government as adopted by that government in any manner and for any purpose for which an amendment could have been made by the governing body of the merging government in the absence of consolidation.

Sec. 12-10. Initial elections. (a) After July 9, 1973, and before

August 13, 1973, each person offering himself as a candidate for his party's nomination to the office of Mayor or for membership on the Board of Commissioners shall file a notice of candidacy with the Board of Elections in the form prescribed by general law.

(b) The initial primary elections of each party shall be held on September 11, 1973, to nominate one candidate for the office of Mayor and one candidate for each seat on the Board of Commissioners. The persons receiving the highest number of votes for each office shall be the nominees of their parties for those offices.

(c) The initial general election for the office of Mayor and for membership of the Board shall be held on November 6, 1973.

(d) The successful candidates assume office on December 3, 1973, and shall serve terms of three years, until 1976. In 1976, and thereafter in even-numbered years, the primary and the general election shall be held as prescribed by general law for county and state offices.

CHAPTER 13. INTENT AND SEPARABILITY

Sec. 13-1. Intent and separability. The people residing within the area of the consolidated government declare that by the adoption of this charter it is their intent to consolidate the governmental and corporate functions of the City of Wilmington and the County of New Hanover so that the consolidating governments may be operated as one governmental entity in the interest of modern, efficient and economical, responsive and responsible democratic government. This charter shall continue in full force and effect even if any of its separable provisions not essential to this objective is held unconstitutional or void, and each provision of this charter is separable from each other provision."

PART I. THE CHARTER LEGISLATION

B. Remainder of Charter Act: Repeals Local Acts and Preserves Interests

Some 850 local acts affecting New Hanover County and its people and the municipalities therein have been enacted by the North Carolina General Assembly since 1875. These have been reviewed and almost 300 are listed in Section 2 of the proposed charter legislation for repeal.

With the establishment of the consolidated government as proposed, many of these become obsolete. Some are inconsistent with the charter provisions and are repealed for that reason. And still others have been incorporated into the proposed charter in order that the charter will contain a full description of the consolidated government's powers and functions.

Among the local acts not repealed are those relating to schools, to all the beach municipalities, pension and retirement systems, and the special application in New Hanover county of general state laws (for example, fish and game statutes).

Sec. 2. The following acts, having served the purposes for which they were enacted, being obsolete, being inconsistent with the charter of the Consolidated Government or having been incorporated into the charter are repealed:

- 1971, Session Laws: Chs. 313, 777.
- 1969, Session Laws: Chs. 64, 245, 371, 926, 958.
- 1967, Session Laws: Ch. 270.
- 1965, Session Laws: Ch. 881.
- 1963, Session Laws: Chs. 275, 796, 1046, 1068, 1124.
- 1961, Session Laws: Chs. 73, 620, 913, 1060.
- 1959, Session Laws: Chs. 89, 216, 427, 471, 474, 483, 1044, 1048, 1049, 1135.
- 1957, Session Laws: Chs. 17, 29, 37, 460, 470, 615, 662, 1159, 1160.
- 1955, Session Laws: Chs. 811, 1009.
- 1953, Session Laws: Chs. 69, 94, 134, 321, 553, 554, 581, 614, 634, 684, 752.
- 1951, Session Laws: Chs. 474, 625, 701, 862, 880, 881, 906, 973, 1123, 1124, 1225.
- 1949, Session Laws: Chs. 32, 395, 396, 535.
- 1947, Session Laws: Chs. 135, 579, 691, 768, 872, 883.
- 1945, Session Laws: Chs. 188, 333, 374, 456, 841, 921, 962, 1083.
- 1943, Session Laws: Chs. 117, 544, 596, 618, 685.
- 1941, Public Laws: Ch. 75.
- Public-Local Laws: Chs. 1, 50, 96, 223, 227, 306, 364, 476.
- 1939, Public-Local Laws: Chs. 501, 520, 575, 578.
- 1937, Public-Local Laws: Chs. 8, 58, 70, 106, 118, 250, 264, 447, 471, 483, 581, 644.

1935, Public Laws: Chs. 172, 237, 338, 432.
 Public-Local Laws: Chs. 27, 42, 73, 170, 310, 314, 316,
 352, 373, 389, 390, 407, 415, 433, 459, 510.
 Private Laws: Chs. 179, 209.
 1933, Public-Local Laws: Chs. 94, 191, 225.
 Private Laws: Chs. 167, 193.
 1931, Public Laws: Chs. 58, 60.
 Public-Local Laws: Chs. 75, 77, 83, 92, 111, 241, 366, 419.
 Private Laws: Chs. 136, 176, 179, 180.
 1929, Public Laws: Ch. 110.
 Public-Local Laws: Chs. 120, 147, 264, 351, 353, 489.
 1927, Public-Local Laws: Chs. 449, 556.
 Private Laws: Ch. 110.
 1925, Private Laws: Chs. 9, 118, 119, 168.
 1924, Public-Local Laws: Extra Session: Chs. 135, 187, 190.
 1923, Public-Local Laws: Chs. 85, 252, 268, 360, 361, 428, 518,
 552, 607, 613, 614.
 Private Laws: Chs. 118, 137, 189, 224, 226.
 1921, Public-Local Laws: Chs. 146, 442, 491, 553.
 Public-Local Laws: Extra Session: Ch. 169.
 Private Laws: Chs. 5, 57, 157, 215, 224.
 Private Laws: Extra Session: Ch. 4.
 1919, Public-Local Laws: Ch. 603.
 Private Laws: Chs. 114, 119, 152, 154, 159, 162.
 1917, Public-Local Laws: Chs. 316, 477, 610, 650.
 Private Laws: Ch. 1.

1915, Public-Local Laws: Chs. 13, 66, 72, 196, 218, 248.
Private Laws: Chs. 148, 184.

1913, Public-Local Laws: Chs. 86, 146, 293, 316, 319, 454, 493,
509, 561.
Public-Local Laws: Extra Session: Chs. 156, 236, 273.
Private Laws: Chs. 355, 375, 381.

1911, Public-Local Laws: Chs. 60, 367, 464, 650.
Private Laws: Chs. 75, 169, 184, 191, 257, 461.

1909, Public Laws: Chs. 37, 63, 308, 339, 342, 392, 867.
Private Laws: Chs. 169, 251, 383.

1908, Public Laws: Extra Session: Chs. 8, 57.
Private Laws: Extra Session: Ch. 13.

1907, Public Laws: Chs. 82, 145, 548, 935.
Private Laws: Chs. 38, 241, 244.

1905, Public Laws: Chs. 340, 708, 745, 795, 837.
Private Laws: Chs. 4, 6, 7, 8, 9, 10.

1903, Private Laws: Chs. 310, 410.

1901, Public Laws: Ch. 49.
Private Laws: Ch. 403.

1899, Public Laws: Ch. 103.
Private Laws: Ch. 213.

1897, Private Laws: Chs. 150, 155.

1895, Public Laws: Ch. 182.
Private Laws: Ch. 121.

1893, Private Laws: Ch. 382.

1891, Public Laws: Ch. 429.
Private Laws: Chs. 5, 242.

1889, Private Laws: Ch. 196.

1885, Private Laws: Chs. 41, 75, 77.

1876-77, Public Laws: Ch. 192.

1874-75, Private Laws: Chs. 43, 101.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any validating laws applying to the County of New Hanover or to the City of Wilmington. As used in this section, the term "validating laws" means laws ratifying, confirming, approving or validating official proceedings (including special assessment and annexation proceedings), actions, (including acquisitions and disposals of property or interests therein), contracts, bonds, or obligations of any kind.

Sec. 4. No provision of this act is intended, nor shall any be construed, to affect in any way any right or interest:

(a) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provision of law repealed by this act; or

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinance or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 5. No law repealed, expressly or by implication, before the effective date of this act, is revived by:

(a) the repeal in this act of any act repealing that law, or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated laws.

Sec. 6. All laws and clauses of laws in conflict with the provisions of this act are repealed.

Sec. 7. The effective date of this act is April 2, 1973.

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Part II. Companion Legislation

A. Text of Consolidated City-County Act

This section contains a draft of general legislation applying to consolidated cities and counties in the state and sets forth the procedure for establishing urban service districts, for expanding them, for consolidating them, and for abolishing them. It also sets forth limitations on taxes and indebtedness and provides for debt procedures. Legislation of this type will need to be introduced and adopted by the 1973 General Assembly as a companion act to the consolidated charter. Under the North Carolina Constitution as it will exist on July 1, 1973, this legislation must be general and cannot be a part of the charter.

Section 2(4) of Article 5 of the Constitution (as of July 1, 1973) reads as follows:

Special tax areas. Subject to the limitations imposed by Section 4, the General Assembly may enact general laws authorizing the governing body of any county, city, or town to define territorial areas and to levy taxes within those areas, in addition to those levied throughout the county, city, or town, in order to finance, provide, or maintain services, facilities, and functions in addition to or to a greater extent than those financed, provided, or maintained for the entire county, city, or town.

Section 4 of Article 5 is concerned with limitations on local government debt and provides, in paragraph (1), as follows:

Regulation of borrowing and debt. The General Assembly shall enact general laws relating to the borrowing of money secured by a pledge of faith and credit and the contracting of other debts by counties, cities and towns, special districts, and other units, authorities, and agencies of local government.

These provisions make it necessary that legislation relating to the establishment of the districts, taxes to be imposed by the districts, and debt limitations and procedures of the consolidated government all be matters of general law.

Section 3 of Article 14 of the Constitution (as of July 1, 1973) provides that "whenever the General Assembly is directed or authorized by this Constitution to enact general laws no special or local act shall be enacted concerning the subject matter directed or authorized to be accomplished by general ... law ...". The same section provides that "General laws may be enacted for classes defined by population or other criteria."

Under the authority of this section, the draft includes procedures for creating and dealing with special tax areas (urban service districts) for consolidated governments as a class. It also includes tax and debt limitations and procedures for consolidated governments.

The provisions of the Consolidated City-County Act permit the creation of an urban service district to immediately replace all cities within the county that consolidate on the date the consolidated government is established. Other municipalities may be consolidated later. The standards for creating a new district and for annexing districts are essentially the same as those now found in North Carolina's municipal annexation laws and were derived from the annexation laws.

The tax limit specified in this draft for urban service districts is the limit that applies to cities. There is no general taxing limit for county governments in North Carolina and the draft contains no limit for county-wide taxes by a consolidated city-county.

The draft contemplates that motor vehicle license tags and taxicab licenses would be levied only within the urban service districts.

The debt limits provided reflect current limits. As of July 1, 1973, the new Local Government Finance Act, adopted by the 1971 General Assembly, will become effective. It will provide a single consolidated procedure for contracting debt by all local governmental units in the state. The draft would extend its provisions to a consolidated city-county.

CONSOLIDATED CITY-COUNTY ACT

A BILL TO BE ENTITLED AN ACT TO DEFINE A CONSOLIDATED CITY-COUNTY; TO AUTHORIZE THE GOVERNING BOARD OF A CONSOLIDATED CITY-COUNTY TO DEFINE, EXTEND, CONSOLIDATE AND ABOLISH URBAN SERVICE DISTRICTS; TO AUTHORIZE THE GOVERNING BOARD OF A CONSOLIDATED CITY-COUNTY TO LEVY TAXES WITHIN URBAN SERVICE DISTRICTS; AND TO SET FORTH THE DEBT LIMITS AND PROCEDURES FOR A CONSOLIDATED CITY-COUNTY.

The General Assembly of North Carolina enacts:

Sec. 1. Chapter 153 of the General Statutes of North Carolina is amended by adding thereto a new article to read as follows:

"Article . Urban Service Districts

in a Consolidated City-County

Part 1. Title and Definition

"Sec. 153- . Title. This Act shall be cited as the 'Consolidated City-County Act of 1973.'

"Sec. 153- . Definitions. In this article: (a) 'Consolidated city-county' means any county where the largest municipality in the county has been abolished and its powers, duties, rights, privileges and immunities consolidated with those of the county. Other municipalities in the county, if any, may or may not have been abolished and their powers, duties, rights, privileges and immunities consolidated with those of the county.

(b) 'Governing board' means the governing board of a consolidated city-county.

Part 2. Defining Urban Service Districts

"Sec. 153- . Authority; purpose of districts. The governing board may define any number of urban service districts in order to finance, provide or maintain for the districts services, facilities and functions in addition to or to a greater extent than those financed, provided or maintained for the entire consolidated city-county.

"Sec. 153- . Definition of urban service districts to replace municipalities abolished at the time of consolidation. The governing board, by resolution, may define an urban service district within the boundaries of the largest municipality that existed in the county before consolidation and within the boundaries of any other municipality abolished at the time of the establishment of the consolidated city-county. Any urban service district so defined shall comprise the total area of the abolished municipality as it existed immediately before the effective date of consolidation. The resolution shall take effect upon its adoption.

"Sec. 153- . Definition of urban service districts to replace municipalities abolished subsequent to consolidation. The governing board, by resolution, may define an urban service district within the boundaries of any municipality within the consolidated city-county the citizens of which, subsequent to the establishment of the consolidated city-county, have voted in a referendum to abolish their municipality and consolidate its powers, duties, rights, privileges and immunities with those of the consolidated city-county. An urban service district so defined shall comprise the total area of the municipality as it existed immediately before the effective date of its abolition. The resolution shall take effect at the beginning of the fiscal year next occurring after its adoption.

"Sec. 153- . Definition of urban service districts where no municipality existed. (a) Standards.--The governing board, by resolution, may define an urban service district upon finding that a proposed district:

- (1) has a resident population of at least 1,000;
- (2) has a resident population density of at least one person per acre;
- (3) has an assessed valuation of at least two and one-half million dollars;

(4) requires one or more of the services, facilities and functions that are provided or maintained only or to a greater extent for an urban service district; and

(5) does not include any territory within an active incorporated municipality.

(b) Report.--Prior to the public hearing required by subsection (c), the consolidated city-county shall prepare a report containing:

(1) a map of the proposed district, showing its proposed boundaries;

(2) a statement showing that the proposed district meets the standards of subsection (a); and

(3) a plan for providing urban services, facilities and functions for the district.

The report shall be available in the office of the clerk of the consolidated city-county for at least two weeks prior to the date of the public hearing.

(c) Hearing and notice.--The governing board shall hold a public hearing prior to adoption of any resolution defining a new urban service district. Notice of the hearing shall state the date, hour and place of the hearing and its subject, and shall include a statement that the report required by subsection (b) is available for inspection in the office of the clerk of the consolidated city-county. The notice shall be published in a newspaper of general circulation in the county at least once and not less than one week prior to the date of the hearing. In addition it shall be mailed at least four weeks prior to the date of the hearing to the owners as shown by the tax records of the consolidated city-county of all property located within the proposed district. The person designated by the governing board to mail the notice shall certify to the governing board that the

mailing has been completed and his certificate shall be conclusive in the absence of fraud. The hearing may be held within the proposed district.

(d) Effective date.--The resolution defining an urban service district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the governing board.

"Sec. 153- . Extension of urban service districts. (a) Standards.-- The governing board, by resolution, may extend by annexation the boundaries of any urban service district upon finding that:

(1) the area to be annexed is contiguous to the district, with at least one eighth of the area's aggregate external boundary coincident with the existing boundary of the district;

(2) the area to be annexed has a resident population density of at least one person per acre and an assessed valuation of at least \$1,000 per resident person; or the area to be annexed is so developed that at least sixty per cent of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional or governmental purposes and at least sixty per cent of the total acreage of the area at the time of annexation is devoted to these uses; and

(3) the area to be annexed requires the services, facilities or functions that are provided for the contiguous urban service district.

(b) Annexation by petition.--The governing board also, by resolution, may extend by annexation the boundaries of any urban service district when one hundred per cent of the real property owners of the area to be annexed have petitioned the governing board for annexation to the service district.

(c) Report.--Prior to the public hearing required by subsection (d), the consolidated city-county shall prepare a report containing:

(1) a map of the urban service district and the adjacent territory, showing the present and proposed boundaries of the district;

(2) a statement showing that the area to be annexed meets the standards of subsection (a) or comes before the governing board by petition as provided by subsection (b); and

(3) a plan for extending urban services, facilities and functions to the area to be annexed.

The report shall be available in the office of the clerk of the consolidated city-county for at least two weeks prior to the date for the public hearing.

(d) Hearing and notice.--The governing board shall hold a public hearing prior to adoption of any resolution extending the boundaries of an urban service district. Notice of the hearing shall state the date, hour and place of the hearing and its subject, and shall include a statement that the report required by subsection (c) is available for inspection in the office of the clerk of the consolidated city-county. Notice shall be published in a newspaper of general circulation in the county at least once and not less than one week prior to the date of the hearing. In addition notice shall be mailed at least four weeks prior to the date of the hearing to the owners as shown by the tax records of the consolidated city-county of all property located within the area to be annexed. The person designated by the governing board to mail the notice shall certify to the governing board that the mailing has been completed, and his certificate shall be conclusive in the absence of fraud.

(e) Effective date.--The resolution extending the boundaries of the district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the governing board.

(f) A consolidated city-county may not utilize the procedures of this section to annex to an urban service district territory within the boundaries of an active incorporated municipality.

"Sec. 153- . Consolidation of urban service districts. (a)

Standards.--The governing board, by resolution, may consolidate two or more urban service districts upon finding that:

(1) the districts are contiguous or are in a continuous boundary; and

(2) the provision or maintenance of urban services, facilities and functions for each of the districts is substantially the same; or

(3) if the provision or maintenance of urban services, facilities and functions is lower for one of the districts, there is a need to increase those services, facilities and functions for that district. However, no urban service district providing electric or telephone services may be consolidated with any other urban service district unless the voters of the district providing these utility services approve the consolidation in a referendum held for that purpose.

Any consolidated city-county may hold these referendums.

(b) Report.--Prior to the public hearing required by subsection (c), the consolidated city-county shall prepare a report containing:

(1) a map of the districts to be consolidated;

(2) a statement showing the proposed consolidation meets the standards of subsection (a); and

(3) if necessary, a plan for increasing the urban services, facilities and functions for one of the districts so that they are substantially the same throughout the consolidated district.

The report shall be available in the office of the clerk of the consolidated city-county for at least two weeks prior to the date of the public hearing.

(c) Hearing and notice.--The governing board shall hold a public hearing prior to adoption of any resolution consolidating urban service districts. Notice of the hearing shall state the date, hour and place of the hearing and its subject, and shall include a statement that the report required by subsection (b) is available for inspection in the office of the clerk of the consolidated city-county. Notice shall be published in a newspaper of general circulation in the county at least once and not less than two weeks prior to the date of the hearing. In addition, if the services, facilities and functions for one of the districts will be substantially increased as a result of the consolidation, notice shall be mailed at least four weeks prior to the date of the hearing to the owners as shown by the tax records of the consolidated city-county of all property located within the district. The person designated by the governing board to mail the notice shall certify to the governing board that the mailing has been completed and his certificate shall be conclusive in the absence of fraud.

(c), (d) Effective date.--The consolidation of urban service districts shall take effect at the beginning of a fiscal year commencing after passage of the resolution of consolidation, as determined by the governing board.

"Sec. 153- . Required provision or maintenance of services, facilities, and functions. (a) New district.--When a consolidated city-county defines a new urban service district, it shall provide or maintain

the services, facilities and functions for which the residents of the district are being taxed within a reasonable time, not to exceed one year, after the effective date of the definition of the district.

(b) Extended district.--When a consolidated city-county annexes territory to an urban service district, it shall provide or maintain the services, facilities and functions provided or maintained throughout the district to the residents of the area annexed to the district within a reasonable time, not to exceed one year, after the effective date of the annexation.

(c) Consolidated district.--When a consolidated city-county consolidates two or more urban service districts, one of which has had provided or maintained a lower level of urban services, it shall increase the services, facilities and functions within that district to a level comparable to those provided or maintained elsewhere in the consolidated district within a reasonable time, not to exceed one year, after the effective date of the consolidation.

"Sec. 153- . Abolition of urban service districts. Upon finding that there is no longer a need for a particular urban service district, the governing board, by resolution, may abolish that district. The governing board shall hold a public hearing prior to adoption of a resolution abolishing a district. Notice of the hearing shall state the date, hour and place of the hearing, and its subject, and shall be published in a newspaper of general circulation in the county at least once a week for two successive weeks prior to the date of the hearing. The abolition of any urban service district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the governing board.

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Part 3. Levy of Taxes
In Urban Service Districts

"Sec. 153- . Taxes authorized; limits. A consolidated city-county may levy the following taxes within defined urban service districts in addition to those levied throughout the county, in order to finance, provide or maintain for the districts services, facilities and functions in addition to or to a greater extent than those financed, provided or maintained for the entire county.

(a) Property taxes.--A consolidated city-county may levy within any urban service district a tax on property at a rate not to exceed one dollar and fifty cents on the one hundred dollars of appraised valuation. This rate limitation does not apply to property taxes levied (1) for debt service on general obligation bonds of the consolidated city-county, (2) for the support of the public schools or (3) for any purpose approved by a special vote of the people.

(b) Taxicab license tax.--A consolidated city-county may levy within any urban service district the motor vehicle and taxicab license taxes authorized in G. S. 20-97.

(c) Privilege license taxes.--A consolidated city-county may levy within any urban service district privilege license taxes as authorized for cities and towns under the general law of the state.

Part 4. Debt Limits and Procedures
of a Consolidated City-County

"Sec. 153- . Authority to issue general obligation and revenue bonds.
A consolidated city-county may issue its general obligation and revenue bonds for any purpose for which either county or municipal governments in North Carolina are authorized to issue bonds under the general laws of the State.

"Sec. 153- . Procedure for issuing general obligation and revenue bonds. In issuing its general obligation and revenue bonds, a consolidated city-county, except as expressly modified by this part, is subject to the provisions of Chapter 159 of the General Statutes of North Carolina.

If a proposed bond issue is required by law to be submitted to and approved by the voters of the consolidated government, and if the proceeds of the proposed bond issue are to be used in connection with a service, facility or function that is or, if the bond issue is approved, will be financed, provided or maintained only for one or more urban service districts, the proposed bond issue must be approved concurrently by a majority of those voting throughout the entire consolidated government and by a majority of the total of those voting in all the affected or to be affected urban service districts.

"Sec. 153- . Debt limitations. The net indebtedness in the form of general obligations of a consolidated city-county for school purposes may not exceed eight per cent of the appraised valuation of taxable property in the county. The net indebtedness in the form of general obligations of a consolidated city-county for all purposes other than for schools or water, sewerage, gas and electric purposes may not exceed eight per cent of the appraised valuation of taxable property in the county. No other debt limitations applying to counties and municipalities in North Carolina apply to a consolidated city-county."

Sec. 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 3. All laws and clauses of laws in conflict with this Act are repealed.

Sec. 4. This Act is effective July 1, 1973.

Part II. Companion Legislation

B. Text of Act to Amend Certain General Laws

Under existing statutes the cities and towns in North Carolina are eligible to receive certain forms of state aid and share in receipts from some state taxes. The first four sections of the draft of the following act amends these statutes to provide that urban service districts in a consolidated city-county are to be treated as a city or town for the purpose of the distributions and that the funds are to be paid to the consolidated government. The charter (see Chapter 8) allocates these distributions to the urban service district or the county-wide part of the consolidated budget or authorizes the consolidated governing board to make the allocations.

Section 5 of the draft of the following act provides for minor reorganization of the county Board of Health. The changes are necessary to make the arrangement fit with the plan of government. For constitutional reasons the act must be in the form of a general law.

B. Text of Act to Amend Certain General Laws

A BILL TO BE ENTITLED AN ACT TO AMEND CERTAIN GENERAL STATUTES AS THEY APPLY TO THE GOVERNMENT OF A CONSOLIDATED CITY-COUNTY.

The General Assembly enacts:

Sec. 1. G.S. 105-113 is amended by adding at the end thereof the following new subsection (v):

"(v) For purposes of subsection (p), the term municipality includes any urban service district defined by the governing board of a consolidated city-county, and the amount due thereby shall be distributed to the government of the consolidated city-county."

[Qualifies consolidated government for distribution of share of beer and wine tax on same basis as municipalities presently receive distributions.]

Sec. 2. G.S. 105-116 is amended by adding at the end thereof the following new subsection (h):

"(h) For purposes of subsection (g) and of G.S. 105-120(d) the term municipality includes any urban service district defined by the governing board of a consolidated city-county, and the amounts due thereby shall be distributed to the government of the consolidated city-county."

[Qualifies consolidated government for distributions of franchise tax on same basis as municipalities presently receive distributions.]

Sec. 3. G.S. 105-213 is amended by renumbering the present section as subsection (a) and adding a new subsection (b) as follows:

"(b) For purposes of this section, the term municipality includes any urban service district defined by the governing board of a consolidated city-county, and the amounts due thereby shall be distributed to the government of the consolidated city-county."

[Qualifies consolidated government for distributions of intangibles tax proceeds on same basis as if any urban service district were a municipality.]

Sec. 4. G.S. 136-41.1 is amended by renumbering the present section as subsection (a) and adding a new subsection (b) as follows:

"(b) For purposes of this section and of G.S. 136-41.2 and 136-41.3, urban service districts defined by the governing board of a consolidated city-county shall be considered eligible municipalities, and the allocations to be made thereby shall be made to the government of the consolidated city-county."

[Qualifies consolidated government for state street-aid funds.]

Sec. 5. Chapter 130 of the General Statutes is amended by adding a new article to read as follows:

"Article 3.1 Board of Health in a Consolidated City-County.

"Sec. 1. Board of Health established; membership. A consolidated city-county, as defined in the Consolidated City-County Act of 1973, has a Board of Health of three or more ex officio and four public members. The ex officio members, who may designate other persons to serve for them, are the mayor and the mayor pro tempore of the consolidated city-county and the superintendents of each school system within the consolidated city-county. The four public members include a licensed physician, a pharmacist, a dentist and a public-spirited citizen. The governing board of the consolidated city-county appoints the public members, who serve four-year staggered terms, beginning on January 1. Public members shall be qualified voters of the consolidated government and shall receive compensation and allowances, if any, as set by the governing board of the consolidated government. Vacancies in the public membership on the Board of Health shall be filled by the

governing board of the consolidated city-county for the unexpired term.

The governing board may remove any public member for cause.

"Sec. 2. Transition from county Board of Health. Members of the county Board of Health serving at the date of the establishment of any consolidated city-county are the initial members of the consolidated city-county Board of Health. Public members serving at the date of the establishment of any consolidated city-county shall serve terms ending on the January 1 immediately preceeding the date on which their terms would have expired except for this act.

"Sec. 3. Officers and procedures. (a) Officers. At its initial meeting and in January of each subsequent year, the Board of Health shall elect a chairman and may elect other officers. The Director of the Department of Public Health shall serve as secretary to the Board of Health.

(b) Meeting procedures. A majority of the members of the Board of Health constitutes a quorum. The Board of Health may determine its own rules of procedure.

(c) Management of funds. The Board of Health is subject to the fiscal control and budgeting procedures of the consolidated city-county.

"Sec. 4. Applicable law. Except as provided in this article, the provisions of Article 3 of Chapter 130 of the General Statutes applies to the Board of Health of a consolidated city-county."

[Establishes board of health. Must be general law for constitutional reasons.]

Sec. 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this

act are declared to be severable.

Sec. 7. All laws and clauses of law in conflict with this act are repealed.

Sec. 8. The effective date of this act is April 2, 1973.

PART II. COMPANION LEGISLATION

C. Text of Act to Amend Certain Local Laws

The proposed charter continues all pension and retirement funds maintained by the City of Wilmington and New Hanover County and preserves all rights in them by present and former employees. The provisions of the various pension and retirement laws have not been incorporated into the charter. They continue to exist under local laws. The attached draft would amend these local laws to redesignate, consistent with the consolidated structure, how the governing boards of the pension funds and retirement systems are selected.

C. Text of Act to Amend Certain Local Laws

A BILL TO BE ENTITLED AN ACT TO AMEND CERTAIN LOCAL ACTS AS THEY APPLY TO THE CONSOLIDATED GOVERNMENT OF WILMINGTON AND NEW HANOVER COUNTY.

The General Assembly enacts:

Sec. 1. Section 1 of Chapter 669 of the Session Laws of 1943, as amended, is amended by deleting all words of the first sentence following the colon in line 5 of the section and all of the second sentence and inserting in lieu thereof the language: "One by the employees of the Consolidated Government of Wilmington and New Hanover County and one by the Board of Commissioners of the consolidated government, and these two shall select a third member of the board, who shall serve for a period of two years, at which time and every two years thereafter his successor shall be selected in the same manner, and the finance director of the consolidated government is hereby designated a member of said board of trustees without voting power. The said trustee shall be appointed by the Board of Commissioners of the consolidated government on the first Monday in July of each odd-numbered year to serve a term of two years," so that the first two sentences shall read as follows:

"Section 1. That there is hereby created a Board of Trustees in the County of New Hanover to be known as the "Board of Trustees for the Retirement System of New Hanover County, North Carolina," and the board of trustees shall consist of persons to be selected as follows: One by the employees of the Consolidated Government of Wilmington and New Hanover County and one by the Board of Commissioners of the consolidated government, and these two shall select a third member of the board, who shall serve for a period of two years, at which time and every two years thereafter his successor shall be selected in the same manner, and the finance director of the consolidated government is hereby designated a member of said board of trustees without voting power.

The said trustee shall be appointed by the Board of Commissioners of the consolidated government on the first Monday in July, in each odd-numbered year to serve a term of two years."

[Changes members of the board of trustees of the county employees' retirement system to accord with the new government.]

Sec. 2. Section 1 of Chapter 1175 of the Session Laws of 1951, as amended, is amended by deleting the second sentence and inserting in lieu thereof the language: "Said board of trustees shall consist of four members, one member shall be appointed by the Board of Commissioners of the Consolidated Government of Wilmington and New Hanover County, one member shall be appointed by the police department of the Wilmington Urban Service District, and the third member of said board shall be selected and appointed by the first two members appointed as aforesaid, and the finance director of the consolidated government is hereby designated as a member of the said board of trustees without voting power."

[Changes members of the board of trustees of the police pension fund to accord with the new government.]

Sec. 3. (a) Section 1 of Chapter 26 of the Private Laws of 1937, as amended, is amended by deleting all of words of the first sentence following the colon in line 5 of the section and inserting in lieu thereof the language: "Two by the members of the Wilmington Urban Service District Fire Department, two by the Board of Commissioners of the Consolidated Government of Wilmington and New Hanover County, one by the State Insurance Commissioner, and the finance director of the consolidated government is hereby designated as a member of said board of trustees without voting power."

(b) The eleventh through the seventeenth words of the second sentence are deleted and in lieu thereof the following word inserted: "Commissioners".

(c) The sixty-third through the eighty-first words of the second sentence are deleted and in lieu thereof the following language inserted: "finance director of the consolidated government is hereby appointed as Treasurer".

(d) The first two sentences of Section 1 of Chapter 26 of the Private Laws of 1937 shall now read as follows:

"Section 1. That there is hereby created a board of trustees in the City of Wilmington to be known as the "Board of Trustees for the Firemen's Pension Fund of Wilmington, North Carolina," and the said board shall consist of six men to be selected as follows: Two by the members of the Wilmington Urban Service District Fire Department, two by the Board of Commissioners of the Consolidated Government of Wilmington and New Hanover County, one by the State Insurance Commissioner, and the finance director of the consolidated government is hereby designated as a member of said board of trustees without voting power. The said trustees shall be appointed by the Board of Commissioners to serve until the first day of January, one thousand nine hundred and thirty-eight, and on the first day of January, one thousand nine hundred and thirty-eight and each two years thereafter, there shall be selected as heretofore set out, members of said board who shall serve without compensation, and the finance director of the consolidated government is hereby appointed as Treasurer of the Wilmington Firemen's Pension Fund, and shall receive for his services a compensation to be allowed by board of trustees for the treasurer or clerical assistant."

[Changes members of the board of trustees of the firemen's pension fund to accord with the new government.]

Sec. 4. Section 1 of Chapter 708 of the Session Laws of 1943, as amended, is amended by deleting all the words of the first sentence following the

colon in line 5 of the section and inserting in lieu thereof the language:
"one by the Board of Commissioners of the Consolidated Government of Wilmington and New Hanover County, one by the employees of the consolidated government and one shall be selected by the foregoing two trustees; and the finance director of the consolidated government is hereby appointed a member of said board without voting power.", so that the first sentence of the section shall read as follows: "That there is hereby created a Board of Trustees in the City of Wilmington, North Carolina, to be known as the "Board of Trustees of the Retirement System of the City of Wilmington"; and the said board of trustees shall consist of four members to be selected as follows: one by the Board of Commissioners of the Consolidated Government of Wilmington and New Hanover County, one by the employees of the consolidated government and one shall be selected by the foregoing two trustees; and the finance director of the consolidated government is hereby appointed a member of said board without voting power."

[Changes members of the board of trustees of the city employees' retirement system to accord with the new government.]

Sec. 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 6. All laws and clauses of laws in conflict with this act are repealed.

Sec. 7. The effective date of this act is April 2, 1973.

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PART II. COMPANION LEGISLATION

D. Text of Act to Amend ABC Laws

Members of the ABC Board are currently appointed at a joint meeting of the Board of County Commissioners, the Board of Health and the Board of Education, with each member of each board having one vote. The attached act would change the procedure to direct the Board of Commissioners of the consolidated government, the Board of Health and the Board of Education to each select three of its members to meet for the purpose of appointing members to the ABC Board. The increased size of the Board of Commissioners in the consolidated government suggested this arrangement.

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The second section of the draft would continue the present distribution of ABC profits to the towns of Carolina Beach and Wrightsville Beach and allocate the remainder to the consolidated government where, under provisions of the charter, it is to be appropriated by the Board of Commissioners.

D. Text of Act To Amend ABC Laws

A BILL TO BE ENTITLED AN ACT TO AMEND ABC LAWS RELATING TO THE SELECTION OF THE ABC BOARD OF THE CONSOLIDATED GOVERNMENT OF WILMINGTON AND NEW HANOVER COUNTY AND THE DISTRIBUTION OF ITS PROFITS

The General Assembly enacts:

Sec. 1. G. S. 18A-16 is amended by adding a new subsection (e) to read as follows:

"(e) In New Hanover County, notwithstanding the provisions of subsection (a) of this section, the board of alcoholic control shall be selected in a joint meeting of representatives of the Board of Commissioners of the Consolidated Government of New Hanover County, the New Hanover County Board of Health and the New Hanover County Board of Education. Each board shall select three of its members to serve as its representatives at the joint meeting. For purposes of this subsection only, the composite board referred to in subsection (a) of this section shall consist of these nine representatives."

Sec. 2. (a) Section 1 of Chapter 471 of the Public-Local Laws of 1937, as amended, is amended by inserting in the first sentence of the section, between the tenth and eleventh words, the words: "in New Hanover County", striking out the twenty-eighth through the thirty-ninth words and inserting in lieu thereof the words: "as amended", and striking out the forty-third through the forty-sixth words.

(b) Section 1 of Chapter 471 of the Public-Local Laws of 1937, as amended, is amended by striking out, in lines 9 and 10 of the section, the words "New Hanover County" and inserting in lieu thereof the words: "the Consolidated Government of Wilmington and New Hanover County".

(c) Section 1 of Chapter 471 of the Public-Local Laws of 1937, as amended, is amended by striking out, in line 10 of the section, the word "county" and inserting in lieu thereof the word: "government".

(d) Section 1 of Chapter 471 of the Public-Local Laws of 1937, as amended, is further amended by deleting the entire third paragraph of the section.

(e) Section 1 of Chapter 471 of the Public-Local Laws of 1937, as amended, is further amended by striking out, in line 22 of the section, the words "County of New Hanover" and inserting in lieu thereof the words: "Consolidated Government of Wilmington and New Hanover County".

(f) Section 1 of Chapter 471 of the Public-Local Laws of 1937, as amended, is amended by striking out the last twelve words of the section and inserting a period after the word "beverages".

(g) Section 1 of Chapter 471 of the Public-Local Laws of 1937 shall now read as follows:

"Section 1. That the profits arising from the sale of alcoholic beverages in New Hanover County under the terms of chapter four hundred eighteen, Public Laws of one thousand nine hundred thirty-five, as amended, shall be distributed as follows:

"When the county store is located in an unincorporated area, one hundred percent of the profits received from the sale of alcoholic beverages shall revert to the General Fund of the Consolidated Government of Wilmington and New Hanover County for expenditure of said government as may be authorized by law.

"When the county store or unit is located within the Town of Wrightsville Beach or the Town of Carolina Beach, seventy-five percent of the profits of said units shall revert to the general fund of the city or town, and twenty-five percent to the General Fund of the Consolidated Government of Wilmington and New Hanover County for use as heretofore provided. However, saving and excepting from all such divisions five percent which shall be expended under

allocation by the board for the enforcement of the provisions of all laws
regarding the sale, manufacture and use of all beverages."

Sec. 3. If any provision of this act or the application thereof to any
person or circumstances is held invalid, the invalidity shall not affect other
provisions of applications of the act that can be given effect without the
invalid provision or application, and to this end the provisions of this act
are declared to be severable.

Sec. 4. All laws and clauses of laws in conflict with this act are
repealed.

Sec. 5. The effective date of this act is April 2, 1973.