

**FINAL DRAFT  
CONSOLIDATION  
CHARTER**

**NEW HANOVER COUNTY  
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CHARTER2-C:

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 WILMINGTON/NEW HANOVER COUNTY CONSOLIDATED GOVERNMENT

The GENERAL ASSEMBLY OF NORTH CAROLINA ENACTS:

SECTION 1. The Charter for the Wilmington/New Hanover County Consolidated Government is as follows:

CHAPTER 1. GENERAL PROVISIONS.  
ARTICLE 1. ESTABLISHMENT.

Section 1-1. Consolidated Government Established.

(a) The powers, duties, rights, privileges and immunities of the City of Wilmington and the County of New Hanover are consolidated into one WILMINGTON/NEW HANOVER CONSOLIDATED GOVERNMENT, herein called the GOVERNMENT.

(b) The GOVERNMENT is the legal successor to the separate governments of the City of Wilmington and the County of New Hanover.

(c) The New Hanover County continues as a county of the State of North Carolina.

(d) The City of Wilmington is abolished as an independent municipal corporation

Section 1-2. Boundaries.

The GOVERNMENT has jurisdiction and extends territorially through the total area of New Hanover County.

Sections 1-3. - 1-5. Reserved.

ARTICLE 2. POWERS AND DUTIES.

Section 1-6. Corporate Powers.

(a) The inhabitants of New Hanover County are a constituted politic and corporate body with the name of the

Wilmington/New Hanover Consolidated GOVERNMENT and under that name shall 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 the GOVERNMENT; and may hold, invest, sell or dispose of such property and rights of property.

(b) Except as otherwise provided in this Charter, or G.S. Chapter 160B, the Consolidated City-County Act of 1973, as amended, the consolidated government and its officers and employees may exercise and do enjoy (1) all the powers, duties, rights, privileges, and immunities that counties at or after the effective date of this Charter may exercise and do enjoy under the Constitution and general laws of the State of North Carolina; (2) all the powers, duties, rights, privileges, and immunities that incorporated municipalities at or after the effective date of this Charter may exercise and do enjoy under the Constitution and general laws of the State of North Carolina; and (3) all the powers, duties, rights, privileges, and immunities that the City of Wilmington or New Hanover County at the effective date of this Charter could exercise and enjoy under special acts of the General Assembly of North Carolina. All these special acts applying to the City of Wilmington or New Hanover County are continued and apply to the consolidated

government except as expressly repealed by this Charter or when clearly inconsistent with the provisions of this Charter.

Except as otherwise provided in this Charter, the consolidated government may exercise throughout its jurisdiction any power, duty, right, privilege or immunity granted to it by law.

(c) The GOVERNMENT shall have rights, powers, duties, privileges and authority provided by the Charter, and any additional and supplementary powers reasonably necessary or expedient to carry them into execution and effect as fully and completely as if the additional and supplementary powers were fully enumerated in this Charter and to perform acts pertaining to local affairs, property and government, which are reasonably necessary or expedient in the legitimate exercise of the GOVERNMENT'S duties and functions.

(d) The GOVERNMENT may exercise within the towns of Wrightsville Beach, Carolina Beach and Kure Beach, the rights, powers, duties, privileges and authority that the County of New Hanover could exercise county-wide before the effective date of this Charter or that North Carolina counties are authorized to exercise county-wide subsequent to the effective date of this Charter. The governing board of any town that elects to continue as a separate municipality, however, may agree to the exercise of any power, duty, right, privilege or immunity of the consolidated government within the town.

(e) In exercising and enjoying any power, duty, right, privilege or immunity, the GOVERNMENT shall follow the procedures, if any, set out in this Charter. If the Charter contains a procedure that does not include all acts necessary to exercise the power, duty, right, privilege or immunity, the GOVERNMENT shall supplement the Charter procedure by applicable procedures set out in other statutes. If no procedure is set out in the Charter, the 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 different procedures, the GOVERNMENT may proceed under either.

(f) The procedure set out in any statute, when employed by the GOVERNMENT, is deemed amended to conform to the structure and administrative organization of the 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 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 may by resolution designate an appropriate official to act as fully as if his office were specified in the statute.

Sections 1-7. - 1-9. Reserved.

ARTICLE 3. CONTINUING MUNICIPAL CORPORATIONS.

Section 1-10. Limitations on Powers.

No city or town may annex territory included within the boundaries of an urban service district unless the Board of Commissioners agrees by resolution.

Section 1-11. Consolidating a Town with the Government.

(a) At any time after the effective date of the consolidated government, any of the towns of Wrightsville Beach, Carolina Beach and Kure Beach that continue as a separate municipality may be abolished and its powers, duties, rights, privileges and immunities consolidated with those of, and exercised by, the consolidated government if approved by the qualified voters of the GOVERNMENT.

(b) Any of the towns may consolidate with the GOVERNMENT subject to joint approval of the governing bodies as to an orderly transfer of assets and/or liabilities after a town referendum on consolidation has been held, and a majority of those voting, vote for consolidation. The town's governing board shall cause a referendum to be held within 120 days after: (1) the board has passed an ordinance provisionally consolidating the town with the GOVERNMENT, or (2) the board has been presented with a petition for consolidation signed by at least 10 per cent (10%) of the registered voters of the town. The town's governing board shall notify the Board of Commissioners in writing of the results of the referendum.

(c) The effective date of consolidation shall be the first day of July next following the referendum.

(d) On the effective date of consolidation, the terms of office of all elected officials of the town automatically terminate and the offices are abolished.

## CHAPTER 2. FORM OF GOVERNMENT.

### ARTICLE 1. STRUCTURE.

#### Section 2-1. General.

The GOVERNMENT shall be a Council-Manager form of government. The Mayor and the Board of Commissioners shall be elected in non-partisan elections, using the election and runoff election method set out in N.C.G.S. §163-293.

(a) The Mayor shall be elected at-large by the qualified voters of the GOVERNMENT for a four (4) year term.

(b) The Board of Commissioners shall consist of six (6) Commissioners-At-Large elected by the qualified voters of the GOVERNMENT. All Commissioners shall serve four (4) year staggered terms.

#### Section 2-2. Mayor - Powers and Duties.

Consistent with the provisions of this Charter, the Mayor shall have the powers, duties, rights, privileges and immunities granted to and conferred upon the Chairmen of Boards of County Commissioners and Mayors of cities by the general laws of the State of North Carolina. The Mayor shall preside at meetings of the Board of Commissioners. The Mayor has the same right and responsibility to vote as a

member of the Board, but may not vote to break a tie vote in which he participated.

Section 2-3. Mayor Pro Tempore.

At its organizational meeting after each election, the members of the Board of Commissioners shall elect from among their number a Mayor pro tempore, to serve at the pleasure of the Board of Commissioners. The Mayor pro tempore shall preside over meetings of the Board of Commissioners in the absence of the Mayor, but he has no right to break a tie vote in which he participated. If the Mayor is absent from the county, he may designate the Mayor pro tempore as acting Mayor during his absence; during that time, the Mayor pro tempore has all the powers, rights, duties, privileges, and immunities of the Mayor.

Section 2-4. Board of Commissioners - Powers and Duties.

The legislative powers of the GOVERNMENT are vested in the Board of Commissioners.

Sections 2-5. - 2-8. Reserved.

ARTICLE 2. MAYOR - QUALIFICATIONS AND CONDITIONS OF OFFICE.

Section 2-9. Eligibility for Office.

To be eligible for election to Mayor, a person must be eligible for election by the people to office under the Constitution of North Carolina. The Mayor shall not hold another paid position within the GOVERNMENT.

Section 2-10. Compensation.

The Board of Commissioners shall determine the annual compensation of the Mayor.

Section 2-11. Vacancy or Removal.

(a) The Board of Commissioners shall declare the office of Mayor to be vacant when one or more of the following conditions exists:

1. The Mayor ceases to be a qualified voter of the GOVERNMENT.

2. The Mayor dies, resigns, or is declared mentally incompetent by a court of competent jurisdiction.

3. The Mayor is removed from office under the general laws of North Carolina.

(b) A vacancy in the office of Mayor shall be filled as set forth in N.C.G.S. §160A-63; provided, however, the Mayor pro tempore shall serve as Mayor, with all the powers and duties of the office, until a Mayor is elected and takes office.

Sections 2-12. - 2-14. Reserved.

ARTICLE 3. BOARD OF COMMISSIONERS -  
QUALIFICATIONS AND  
CONDITIONS OF OFFICE.

Section 2-15. Eligibility for Office.

To be a member of the Board of Commissioners, a person must be eligible for election by the people to office under the laws and Constitution of North Carolina. A member shall not hold another paid position within the GOVERNMENT.

Section 2-16. Compensation.

The Board of Commissioners shall determine the annual compensation of the Commissioners.

Section 2-17. Vacancy or Removal.

(a) The Board of Commissioners shall declare the office of a Commissioner to be vacant when one or more of the following conditions exists:

1. A Commissioner ceases to be a qualified voter of the GOVERNMENT.

2. A Commissioner dies, resigns or is declared mentally incompetent by a court of competent jurisdiction.

3. The Commissioner is removed from office under the general laws of North Carolina.

4. The Mayor Pro tempore is appointed to fill a vacancy in the office of Mayor.

(b) A vacancy in the office of Commissioner shall be filled as set forth in N.C.G.S. §160A-63.

CHAPTER 3. ORGANIZATION AND LEGISLATIVE ACTION.

ARTICLE 1. CONDUCT OF PROCEEDINGS.

Section 3-1. Rules of Procedure.

The meetings of the Board of Commissioners shall be conducted in accordance with rules of procedure adopted by the Board.

Section 3-2. Meetings.

(a) The Board of Commissioners shall hold an organizational meeting at the first regular meeting in December

following a general election in which Commissioners are elected except for the initial formation of the Consolidated Government. The newly elected Mayor and members of the Board of Commissioners shall take and subscribe the oath of office required by the North Carolina Constitution. A person absent from the organizational meeting may take and subscribe the oath at a later time.

(b) Regular and Special Meetings of the Board of Commissioners shall be scheduled, called and held pursuant to the provisions of N.C.G.S. §153A-40.

Section 3-3. Quorum and Voting.

(a) A quorum shall be a majority of the membership of the Board of Commissioners including the Mayor, but excluding vacant seats. A member who has withdrawn from a meeting without being excused by a majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

(b) A member of the Board of Commissioners, by vote of the Board, may be excused from voting only on matters involving his official conduct or his own financial interests.

(c) A failure to vote by any member of the Board of Commissioners who is physically present or who has withdrawn and has not been excused from voting, shall be recorded as an affirmative vote.

(d) The vote of each member of the Board of Commissioners on each ordinance, resolution, motion or other action shall be recorded.

Sections 3-4. - 3-7. Reserved.

ARTICLE 2. PROCEDURE FOR EXERCISE OF  
LEGISLATIVE POWERS.

Section 3-8. Ordinance Procedures.

No ordinance shall be passed or adopted until it has been read at two (2) regular meetings, not less than one week apart and approved by the affirmative vote of the majority of the members, including the Mayor. One of the meetings shall be an evening meeting. This requirement for a second reading may be waived by a unanimous vote of the members present, including the Mayor.

CHAPTER 4. ADMINISTRATION.  
ARTICLE 1. IMPLEMENTATION.

Section 4-1. Initial Organization.

The initial administrative organization of the GOVERNMENT shall be that of the merging governments on the effective date of the consolidated government and the GOVERNMENT initially shall be organized into at least the departments that were in existence prior to consolidation.

Section 4-2. Reorganization.

The Board of Commissioners, except as restricted by the Charter or the general laws of the state, may organize or reorganize the administrative structure of the GOVERNMENT by creating, transferring, consolidating, reorganizing and

abolishing offices, positions, departments, agencies, boards, commissions, and authorities of the GOVERNMENT. Sections 4-3. - 4-4. Reserved.

## ARTICLE 2. APPOINTED POSITIONS.

### Section 4-5. Appointment, Removal and Suspension.

The Board of Commissioners shall appoint, remove or suspend from office the GOVERNMENT Manager, GOVERNMENT Attorney and the Clerk to the Board of Commissioners.

### Section 4-6. Manager.

The GOVERNMENT Manager shall report to the Board of Commissioners and shall perform duties as required by this Charter, local ordinances, state law and shall perform other duties as directed by the Board of Commissioners.

### Section 4-7. Attorney.

The GOVERNMENT Attorney shall report to the Board of Commissioners and shall perform duties as required by this Charter, local ordinances, state law and shall perform other duties as directed by the Board of Commissioners.

### Section 4-8. Clerk to the Board of Commissioners.

The Clerk to the Board of Commissioners shall report to the Board of Commissioners and shall perform duties as required by this Charter, local ordinances, state law and shall perform other duties as directed by the Board of Commissioners.

Sections 4-9. - 4-13. Reserved.

ARTICLE 3. SPECIAL APPOINTMENTS.

Section 4-14. Chief Law Enforcement Officer and Chief of Consolidated Fire Department.

(a) On the effective date of consolidation, the Board of Commissioners shall appoint the person holding office as Sheriff to serve as the chief of a merged law enforcement agency.

(b) At any time thereafter, the Board of Commissioners shall have the discretion to appoint any other person to serve as the chief of the merged law enforcement agency. Any such appointment shall not affect the duties and responsibilities of the office of Sheriff under the constitution and laws of North Carolina. Any person so appointed shall serve at the pleasure of the Government Manager.

(c) The chief of the merged law enforcement agency shall perform such duties as required by the laws of North Carolina, the Charter, the ordinances of the GOVERNMENT and as directed by the Manager and the Board of Commissioners.

(d) On the effective date of consolidation, the Board of Commissioners shall appoint the person holding office as Chief of the Wilmington Fire Department to serve as the initial chief of a consolidated fire department. After the initial appointment, vacancies in the position of chief of the consolidated fire department shall be filled by appointment by the Board of Commissioners. The chief of the consolidated fire department shall serve at the pleasure of the GOVERNMENT Manager.

(e) The chief of the consolidated fire department shall perform such duties as required by the laws of North Carolina, the Charter, the ordinances of the GOVERNMENT and as directed by the Manager and the Board of Commissioners.  
Section 4-15. Statutory Positions.

The appointments of the Director of the Department of Social Services, Health Director, Tax Supervisor, Tax Collector and Elections Supervisor shall be as set forth in the North Carolina General Statutes.

CHAPTER 5. BOARDS AND COMMISSIONS.  
ARTICLE 1. GENERAL PROVISIONS.

Section 5-1. General Authority.

The 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.

Section 5-2. Statutory.

Committees, agencies, boards, commissions, and authorities, however denominated, heretofore created pursuant to authority of general law or special acts of the General Assembly, are continued.

Section 5-3. Discretionary.

Committees, agencies, boards, commissions, and authorities, however denominated, not specifically authorized by general law or special acts of the General

Assembly, may be extended, modified or abolished by the Board of Commissioners.

Section 5-4. - 5-6. Reserved.

CHAPTER 6. FINANCE.  
ARTICLE 1. BUDGETING AND SERVICE DISTRICTS.

Section 6-1. Application of General Law.

The GOVERNMENT is subject to the Local Government Finance Act, Chapter 159 of the General Statutes of North Carolina.

Section 6-2. Districts Established.

The General Service District extends throughout New Hanover County. The Board of Commissioners may define, extend, consolidate and modify Urban Service Districts under procedures of general law. It is the intent of this Charter that the Board of Commissioners will define as an Urban Service District the total area of the County exclusive of any incorporated municipality. It is the further intent of this Charter that the Board of Commissioners will define as an additional urban service district the total area of the City of Wilmington immediately before the effective date of the GOVERNMENT solely for the purpose of providing fire protection services in such district on substantially the same basis as such services were provided in the City of Wilmington prior to the effective date of the GOVERNMENT.

Section 6-3. Preparation of Budget.

The Manager is responsible for preparing the annual budgets as provided in general law.

Section 6-4. General Authority to Levy Taxes and Impose Charges.

The GOVERNMENT shall have the full power and authority to levy and collect any tax, fee or charge authorized by this Charter, local act or the general laws of the State for cities or counties, subject to any limitations imposed by this Charter or Chapter 160B of the North Carolina General Statutes, the Consolidated City-County Act of 1973, as amended.

Section 6-5. - 6-8. Reserved.

CHAPTER 7. EMPLOYMENT AND BENEFITS.  
ARTICLE 1. PERSONNEL SYSTEM.

Section 7-1. Authorized.

The Board of Commissioners shall establish a system of personnel administration. Except as otherwise provided by law and this Charter, the GOVERNMENT Manager shall appoint officers and employees not elected by the people in accordance with such general personnel rules, regulations, policies, or ordinances as the Board of Commissioners may adopt.

Section 7-2. Coverage of System.

The personnel system shall cover all officers and employees of the GOVERNMENT except:

- (a) Elected officials.
- (b) Employees subject to the State Personnel Act.
- (c) Employees of the Sheriff and Register of Deeds where covered in personnel matters under the provisions of general law.

Section 7-3. Pension System.

A pension system shall be available to employees of the GOVERNMENT.

CHAPTER 8. PLANNING AND DEVELOPMENT FUNCTIONS.  
ARTICLE 1. GENERAL PROVISIONS.

Section 8-1. Powers Supplemental to General Law.

For the purpose of promoting the orderly growth, expansion, and development of the GOVERNMENT and for the purpose of promoting the health, safety, morals and general welfare of the citizens of the GOVERNMENT, the Board of Commissioners shall have the powers granted to counties and municipalities by the general law of North Carolina, as the same may now or hereafter be enacted to adopt such ordinances for planning, zoning, subdivision and building regulation as it may deem proper not inconsistent with the law of the land. In addition, the GOVERNMENT shall have the powers granted by this Charter as the same may be amended from time to time, and the enumeration of specific powers as provided in this Charter shall be supplemental to and not in limitation of the powers or procedures provided by other applicable law of North Carolina.

Section 8-2. Wilmington/New Hanover Planning Commission.

(a) The Board of Commissioners shall appoint a planning advisory body for the GOVERNMENT to be known as the Wilmington/New Hanover Planning Commission. The initial Planning Commission shall consist of seven (7) members appointed for three (3) year staggered terms with three (3)

members being appointed each year. The Board of Commissioners may limit the number of terms of office to be served by any person. The Board of Commissioners may change the size and organization of the Planning Commission as deemed appropriate. Members of the Planning Commission shall be residents of the GOVERNMENT.

(b) The Planning jurisdiction of the Planning Commission shall include all areas within the limits of the GOVERNMENT. The duties of the Planning Commission may include the duties of a city or county planning agency as set forth in Article 18 of Chapter 153A and Article 19 of Chapter 160A of the North Carolina General Statutes, as the same may now or hereafter be enacted.

#### Section 8-3. Protest Petitions.

In any proposed amendment, supplement, change, modification or repeal of zoning regulations or restrictions or zone boundaries within urban service districts, the provisions of G.S. 160A-385 and 160A-386 shall apply with full force and effect.

### CHAPTER 9. CONTINUATION AND TRANSITION. ARTICLE 1. CONTINUATION.

#### Section 9-1. Continuation of Ordinances and Resolutions.

Ordinances and resolutions of the City of Wilmington and New Hanover County that are in force immediately before the effective date of the GOVERNMENT 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 GOVERNMENT and shall continue in force until repealed or amended by the Board of Commissioners. Orders, rules and regulations made by any officer, agency, board, commission or authority of the City of Wilmington and New Hanover County that are in force immediately before the effective date of the GOVERNMENT and 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 GOVERNMENT.

Section 9-2. Continuation of Hearings and Proceedings.

Petitions, hearings and other proceedings pending before any officer, office, department, agency, board, commission or authority of the City of Wilmington or New Hanover County continue and remain 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 GOVERNMENT that succeeds to the powers, duties, rights, privileges and immunities of the abolished or consolidated agency.

Section 9-3. Transfer of Assets and Liabilities.

On the effective of the GOVERNMENT:

- (a) Property, real and personal and mixed, belonging

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

(b) Judgments, liens, rights of liens and causes of action of any nature in favor or any of the governments listed in subsection (a) vest in and remain and inure to the benefit of the GOVERNMENT.

(c) 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 GOVERNMENT.

(d) Any action, suit, or proceeding pending against, or having been instituted by, any of the governments listed in subsection (a) shall not be abated by this Charter or by consolidation, but shall be continued and completed in the same manner as if consolidation had not occurred. The GOVERNMENT shall be a party to 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 that government in any of these actions, suits or proceedings. No new process need be served in any of the actions, suits or proceedings.

(e) Obligations, contracts, and agreements of the governments listed in subsection (a), including outstanding general obligation bonds and bond anticipation notes of the City of Wilmington, are assumed by the GOVERNMENT, and all these obligations, contracts, and agreements so assumed are constituted obligations, contracts, and agreements of the

GOVERNMENT. The full faith and credit of the 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 assumed by the GOVERNMENT pursuant to this section, and all the taxable property within the GOVERNMENT shall be and remain subject to taxation for these payments. The GOVERNMENT shall comply with any outstanding covenants previously entered into by the City of Wilmington by which the City pledged revenues other than taxes to the retirement of the City's general obligation indebtedness.

Section 9-4. Continuation of Officers and Employees.

(a) On the effective date of the GOVERNMENT, except as otherwise provided in this Charter, officers and employees of the governments of New Hanover County and the City of Wilmington become officers and employees of the GOVERNMENT.

(b) Employees of the consolidated government who had service with either the City or County will retain leave and retirement service accrued immediately prior to the effective date.

Section 9-5. Continuation of Offices.

Offices, departments, committees, agencies, boards, commissions and authorities, 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 New Hanover County Board of Commissioners, or by joint resolutions of these governing bodies are continued with the

same duties, functions and responsibilities except as expressly provided by this Charter or other acts of the General Assembly.

**Section 9-6. Members, Officers and Employees of Boards and Agencies.**

Except as otherwise provided in this Charter, the members, officers and employees of all agencies, boards, commissions and authorities continue as members, officers 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 the GOVERNMENT. Nothing in this section impairs the authority of the GOVERNMENT with respect to those boards, commissions, authorities and agencies or to any of their members, officers or employees.

Sections 9-7. - 9-10. Reserved.

**ARTICLE 2. TRANSITION.**

**Section 9-11. Effective Date.**

Subject to the acceptance of the plan of consolidation by the voters of the City of Wilmington and New Hanover County as certified by the Board of Elections and after approval of this Charter by the North Carolina General Assembly, the Wilmington/New Hanover Consolidated GOVERNMENT shall be effective sixty days following publication of notice of the enactment of the consolidation by the General

Assembly or the first day of July, 1996, whichever is the later date.

Section 9-12. Transition Board of Commissioners.

(a) From the effective date of the GOVERNMENT through the first regular meeting in December, 1997, the transition Board of Commissioners of the GOVERNMENT shall consist of those persons holding office as members of the New Hanover County Board of Commissioners, the Mayor of the City of Wilmington, and members of the Wilmington City Council immediately prior to the effective date of the Charter and such persons who may be appointed to fill any vacancies which may occur in said offices prior to the initial GOVERNMENT elections. The transition Board of Commissioners shall have all powers, duties, rights, privileges and immunities granted to the GOVERNMENT Board of Commissioners in this Charter and shall exercise such powers in accordance with the Charter. The members of the transition Board of Commissioners shall serve until the members elected at the initial GOVERNMENT elections are qualified. After the initial GOVERNMENT elections, the Board of Commissioners shall be constituted as set forth in Chapter 2 of this Charter.

(b) Those persons entitled to be members of the transition Board of Commissioners shall assemble on the effective date of the GOVERNMENT and shall severally take oath before any officer qualified to administer oaths, to perform faithfully the duties of their offices. Any member

entitled to take the aforesaid oath who was not present at the time fixed therefor may take oath at any time thereafter. A quorum being present, the Board shall thereupon elect from its members a Mayor who shall hold his office until the first regular meeting in December, 1997, unless he shall resign his office of Mayor at an earlier date. A quorum being present, the Board shall thereupon elect from its members a Mayor Pro Tempore who shall hold his office until the first regular meeting in December, 1997, unless he shall resign his office as Mayor Pro Tempore at an earlier date. The Mayor shall have all powers, duties, rights, privileges and immunities granted to the Mayor in the Charter. The Mayor Pro Tempore shall have all powers, duties, rights, privileges and immunities granted to the Mayor Pro Tempore in the Charter.

(c) If any person holding an office described in subsection (a) shall refuse to be qualified, or if there is a vacancy in any of said offices immediately prior to the effective date of this Charter, or there is a vacancy in the office of Mayor or member of the transition Board of Commissioners after the effective date of the GOVERNMENT, the Board shall fill such vacancy for the unexpired term in accordance with N.C.G.S. §160A-63.

(d) The transition Board of Commissioners shall appoint an interim Manager, Attorney and Clerk to the Board to serve at the pleasure of the transition Board of Commissioners. The interim Manager, Attorney and Clerk

shall have all the powers of the GOVERNMENT Manager, Attorney and Clerk to the Board as set forth in this Charter.

(e) It is the intent of this Charter that for the initial fiscal year of the GOVERNMENT to June 30, 1997 the GOVERNMENT shall operate under budgets prepared to continue the operations of New Hanover County and the City of Wilmington until a budget for the consolidated government can be prepared for adoption effective July 1, 1997. To carry such plan into effect, it is the intent of this Charter that the transition Board of Commissioners will define as an urban service district the total area of the City of Wilmington immediately before the effective date of the GOVERNMENT and adopt budgets prepared to continue the operations of New Hanover County and the City of Wilmington as budgets for the general service district and urban service district, respectively, on the effective date of the GOVERNMENT. The Interim Board of Commissioners may amend the budgets in any manner and for any purpose necessary to consolidate the operations of New Hanover County and the City of Wilmington. It is intended that the Board of Commissioners will define urban service districts to include the additional areas described in Chapter 6 of the Charter effective July 1, 1997.

#### Section 9-13. Initial Government Elections.

Pursuant to Chapter 2 of this Charter, the initial election for Mayor and membership on the Board of

Commissioners shall be held in 1997 using the election and runoff election method set out in North Carolina General Statutes §163-293:

(a) The initial Mayor shall be elected to a term ending the first regular meeting in December, 2001.

(b) The initial members of the Board of Commissioners shall be elected to terms of office as follows:

1. The three (3) candidates with the highest votes, shall serve a term ending the first regular meeting in December, 2001.

2. The three (3) candidates with the next highest votes shall serve a term ending the first regular meeting in December, 1999.

After the initial terms of office, the Mayor and members of the Board of Commissioners shall be elected to four-year terms.

#### CHAPTER 10. CHANGES IN FORM AND STRUCTURE OF GOVERNMENT.

##### Section 10-1. Authority to Modify.

The voters of the GOVERNMENT may amend this Charter to modify the form and structure of the GOVERNMENT with respect to matters specified under N.C.G.S. §160A-101.

##### Section 10-2. Method of Modifying.

Modification of the form and structure of the 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. This section shall not restrict

the authority of the Board of Commissioners as otherwise provided in this Charter.

#### CHAPTER 11. INTENT AND SEPARABILITY

The people residing within the area of the 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 efficient, economical, responsive and responsible democratic government. This Charter shall continue in full force and effect even if any of its severable provisions not essential to this objective is held unconstitutional or void, and each provision of this Charter is severable from each other provision.

SECTION 2. 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 rectifying, 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.

SECTION 3. 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.

SECTION 4. 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.

SECTION 5. All laws and clauses of laws in conflict with the provisions of this act are repealed.

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