

NORTH CAROLINA GENERAL ASSEMBLY  
1973 SESSION

CHAPTER 822  
HOUSE BILL 329

AN ACT TO CONSOLIDATE, REVISE, AND AMEND THE GENERAL STATUTES  
RELATING TO COUNTIES.

The General Assembly of North Carolina enacts:

**Section 1.** Chapter 153 of the General Statutes is repealed, except as provided in Sections 2, 3, and 4, of this act, and a new Chapter 153 is inserted in the General Statutes as follows:

**"CHAPTER 153**  
**"COUNTIES**  
"Article 1

"Definitions and Statutory Construction

**"§ 153-1. Definitions.** — Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section have the meaning indicated when used in this chapter.

- (1) 'City' means a city as defined by G.S. 160A-1(2), except that it does not include a city that, without regard to its date of incorporation, would be disqualified from receiving gasoline tax allocations by G.S. 136-41.2(a).
- (2) 'Clerk' means the clerk to the board of commissioners.
- (3) 'County' means any one of the counties listed in G.S. 153-10.
- (4) 'General law' means an act of the General Assembly that applies to all units of local government, to all counties, to all counties within a class defined by population or other criteria, to all cities, or to all cities within a class defined by population or other criteria, including a law that meets the foregoing standards but contains a clause or section exempting from its effect one or more counties, cities, or counties and cities.
- (5) 'Local act' means an act of the General Assembly that applies to one or more specific counties, cities, or counties and cities by name. 'Local act' is interchangeable with the terms 'special act,' 'special law,' 'public-local act,' and 'private act,' is used throughout this chapter in preference to those terms, and means a local act as defined in this paragraph without regard to the terminology employed in local acts or other portions of the General Statutes.
- (6) 'Publish,' 'publication,' and other forms of the verb 'to publish' mean insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county.

**"§ 153-2. Effect on prior laws and actions taken pursuant to prior laws.** — The provisions of this chapter, insofar as they are the same in substance as laws in effect as of December 31, 1973, are intended to continue those laws in effect and not to be new enactments. The enactment of this chapter does not require the readoption of any county or city ordinance adopted pursuant to laws that were in effect as of December 31, 1973, and that are restated or revised in this chapter. The provisions of this chapter do not affect any act heretofore done, any liability incurred, any right accrued or vested, or any suit or prosecution begun or cause of action accrued as of January 1, 1974.

"§ 153-3. **Effect of chapter on local acts.** — (a) Except as provided in this section, nothing in this chapter repeals or amends a local act in effect as of January 1, 1974, or any portion of such an act, unless this chapter or a subsequent enactment of the General Assembly clearly shows a legislative intent to repeal or supersede that local act.

(b) If this chapter and a local act each provide a procedure that contains every action necessary for the performance or execution of a power, right, duty, function, privilege, or immunity, the two procedures may be used in the alternative, and a county may follow either one.

(c) If this chapter and a local act each provide a procedure for the performance or execution of a power, right, duty, function, privilege, or immunity, but the local act procedure does not contain every action necessary for the performance or execution, the two procedures may be used in the alternative, and a county may follow either one; but the local act procedure shall be supplemented as necessary by this chapter's procedure. If a local act procedure is being supplemented in such a manner, and there is a conflict or inconsistency between the local act procedure and this chapter's procedure, the local act procedure shall be followed.

(d) If a power, right, duty, function, privilege, or immunity is conferred on counties by this chapter, and a local act enacted earlier than this chapter omits or expressly denies or limits the same power, right, duty, function, privilege, or immunity, this chapter supersedes the local act.

"§ 153-4. **Broad construction.** — It is the policy of the General Assembly that the counties of this State should have adequate authority to exercise the powers, rights, duties, functions, privileges, and immunities conferred upon them by law. To this end, the provisions of this chapter and of local acts shall be broadly construed and grants of power shall be construed to include any powers that are reasonably expedient to the exercise of the power.

"§ 153-5. **Statutory references deemed amended to conform to chapter.** — If a reference is made in another portion of the General Statutes, in a local act, or in a city or county ordinance, resolution, or order to a portion of G.S. Chapter 153, and the reference is to G.S. Chapter 153 as it existed immediately before the effective date of this act, the reference is deemed amended to refer to that portion of this chapter that most nearly corresponds to the repealed or superseded portion of G.S. Chapter 153.

"Article 2

"Corporate Powers

"§ 153-10. **State has 100 counties.** - North Carolina has 100 counties. They are: Alamance, Alexander, Alleghany, Anson, Ashe, Avery, Beaufort, Bertie, Bladen, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Chowan, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hertford, Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Tyrrell, Union, Vance, Wake, Warren, Washington, Watauga, Wayne, Wilkes, Wilson, Yadkin, and Yancey.

"§ 153-11. **Corporate powers.**— The inhabitants of each county are a body politic and corporate under the name specified in the act creating the county. Under that name they are vested with all the property and rights of property belonging to the corporation; have perpetual succession; may sue and be sued; may contract and be contracted with; may acquire and hold any property and rights of property, real and personal, that may be devised, bequeathed, sold, or in any manner conveyed, dedicated to, or otherwise acquired by the corporation, and from time to time may hold, invest, sell, or dispose of the property and rights of property; may have a

common seal and alter and renew it at will; and have and may exercise in conformity with the laws of this State county powers, rights, duties, functions, privileges, and immunities of every name and nature.

"§ 153-12. **Exercise of corporate power.** — Except as otherwise directed by law, each power, right, duty, function, privilege, and immunity of the corporation shall be exercised by the board of commissioners. A power, right, duty, function, privilege, or immunity shall be carried into execution as provided by the laws of the State; a power, right, duty, function, privilege, or immunity that is conferred or imposed by law without direction or restriction as to how it is to be exercised or performed shall be carried into execution as provided by ordinance or resolution of the board of commissioners.

"§ 153-13. **Continuing contracts**— A county may enter into continuing contracts, some portion or all of which are to be performed in ensuing fiscal years. In order to enter into such a contract, the county must have sufficient funds appropriated to meet any amount to be paid under the contract in the fiscal year in which it is made. In each year, the board of commissioners shall appropriate sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into.

"§ 153-14. **Grants from other governments.** — A county may contract for and accept grants and loans as permitted by G.S. 160A-17.1.

"Article 3

"Boundaries

"§ 153-17. **Existing boundaries.**— The boundaries of each county shall remain as presently established, until changed in accordance with law.

"§ 153-18. **Uncertain or disputed boundary.** — (a) If two or more counties are uncertain as to the exact location of the boundary between them, they may cause the boundary to be surveyed, marked, and mapped. The counties may appoint special commissioners to supervise the surveying, marking, and mapping. A commissioner so appointed or a person surveying or marking the boundary may enter upon private property to view and survey the boundary or to erect boundary markers. Upon ratification of the survey by the board of commissioners of each county, a map showing the surveyed boundary shall be recorded in the office of the register of deeds of each county in the manner provided by law for the recordation of maps or plats and in the Secretary of State's office. The map shall contain a reference to the date of each resolution of ratification and to the page in the minutes of each board of commissioners where the resolution may be found. Upon recordation, the map is conclusive as to the location of the boundary.

(b) If two or more counties dispute the exact location of the boundary between them, and the dispute cannot be resolved pursuant to subsection (a) of this section, any of the counties may apply to a resident or presiding superior court judge in the judicial district or districts in which the counties are located for appointment of a boundary commission. The application shall identify the disputed boundary and ask that a boundary commission be appointed. Upon receiving the application, the court shall set a date for a hearing on whether to appoint the commission. The court shall cause notice of the hearing to be served on the other county or counties. If, after the hearing, the court finds that the location of the boundary is disputed, it shall appoint a boundary commission.

The commission shall consist of one resident of each disputing county and a resident of some other county. The court may appoint one or more surveyors to assist the commission. The commission shall locate, survey, and map and may mark the disputed boundary. To do so it may take evidence and hear testimony, and any commissioner and any person surveying or marking the boundary may enter upon private property to view and survey the boundary or to erect boundary markers. Within forty-five days after the day it is appointed, unless this time is extended by the court, the commission shall make its report (which shall include a map of the surveyed boundary) to the court. To be sufficient, the report must be concurred in by a majority

of the commissioners. If the court is satisfied that the commissioners have made no error of law, it shall ratify the report, after which the map shall be recorded in the office of the register of deeds of each county in the manner provided by law for the recordation of maps or plats and in the Secretary of State's office. Upon recordation, the map is conclusive as to the location of the boundary.

The disputing counties shall divide equally the costs of locating, surveying, marking, and mapping the boundary, unless the court finds that an equal division of the costs would be unjust. In that case the court may determine the division of costs.

**"§ 153-19. Establishing and naming townships.** — A county may by resolution establish and abolish townships, change their boundaries, and prescribe their names. The current boundaries of each township within a county shall at all times be drawn on a map, or set out in a written description, or shown by a combination of these techniques. This current delineation shall be available for public inspection in the office of the clerk.

**"§ 153-20. Map of electoral districts.** — If a county is divided into electoral districts for the purpose of nominating or electing persons to the board of commissioners, the current boundaries of the electoral districts shall at all times be drawn on a map, or set out in a written description, or shown by a combination of these techniques. This current delineation shall be available for public inspection in the office of the clerk.

**"§ 153-21. Redefining electoral district boundaries.**— (a) If a county is divided into electoral districts for the purpose of nominating or electing persons to the board of commissioners, the board of commissioners may find as a fact whether there is substantial inequality of population among the districts.

(b) If the board finds that there is substantial inequality of population among the districts, it may by resolution

- (1) redefine the electoral districts and, if necessary, either reapportion commissioners among the redefined districts or reapportion one or more commissioners to the county at large and the remainder among the redefined districts, or
- (2) abolish electoral districts in the county and provide that elections to the board of commissioners shall be at large.

(c) Redefined electoral districts shall be so drawn that the quotients obtained by dividing the population of each district by the number of commissioners apportioned to the district are as nearly equal as practicable, and each district shall be composed of territory within a continuous boundary.

(d) No change in the boundaries of an electoral district may affect the unexpired term of office of a commissioner residing in the district and serving on the board on the effective date of the resolution. If the terms of office of members of the board do not all expire at the same time, the resolution shall state which seats are to be filled at the initial election held under the resolution.

(e) A resolution adopted pursuant to this section shall be the basis of electing persons to the board of commissioners at the first general election for members of the board of commissioners occurring after the resolution's effective date, and thereafter. A resolution becomes effective upon its adoption, unless it is adopted during the period beginning 60 days before the day of a primary and ending on the day of the next succeeding general election for membership on the board of commissioners, in which case it becomes effective on the first day after the end of the period.

(f) Not later than 10 days after the day on which a resolution becomes effective, the clerk shall file in the Secretary of State's office, in the office of the register of deeds of the county, and with the chairman of the county board of elections a certified copy of the resolution.

"Article 4

"Form of Government

"Part 1. General Provisions

"§ 153-25. **Qualifications for appointive office.** — The board of commissioners may fix qualifications for any appointive office, including a requirement that a person serving in such an office reside within the county. The board may not waive qualifications fixed by law for an appointive office but may fix additional qualifications for that office.

"§ 153-26. **Oath of office.** — Each person elected by the people or appointed to a county office shall, before entering upon the duties of the office, take and subscribe the oath of office prescribed in Article VI, § 7 of the Constitution. The oath of office shall be administered by some person authorized by law to administer oaths and shall be filed with the clerk.

On the first Monday in December following each general election at which county officers are elected, the persons who have been elected to county office in that election shall assemble at the regular meeting place of the board of commissioners. At that time each such officer shall take and subscribe the oath of office. An officer not present at this time may take and subscribe the oath at a later time.

"§ 153-27. **Vacancies on the board of commissioners.** — If a vacancy occurs on the board of commissioners, the remaining members of the board shall appoint a qualified person to fill the vacancy. If the number of vacancies on the board is such that a quorum of the board cannot be obtained, the chairman of the board shall appoint enough members to make up a quorum, and the board shall then proceed to fill the remaining vacancies. If the number of vacancies on the board is such that a quorum of the board cannot be obtained and the office of chairman is vacant, the clerk of superior court of the county shall fill the vacancies upon the request of any remaining member of the board or upon the petition of any five registered voters of the county. If for any other reason the remaining members of the board do not fill a vacancy within 60 days after the day the vacancy occurs, the clerk shall immediately report the vacancy to the clerk of superior court of the county. The clerk of superior court shall, within 10 days after the day the vacancy is reported to him, fill the vacancy.

If the member being replaced was serving a two-year term, or was in the last two years of a four or six-year term, the appointment to fill the vacancy is for the remainder of the unexpired term. Otherwise, the term of the person appointed to fill the vacancy extends to the first Monday in December next following the first general election held more than 30 days after the day the vacancy occurs; at that general election, a person shall be elected to the seat vacated, either to the remainder of the unexpired term or, if the term has expired, to a full term.

To be eligible for appointment to fill a vacancy, a person must (i) be a member of the same political party as the member being replaced, if that member was elected as the nominee of a political party, and (ii) be a resident of the same district as the member being replaced, if the county is divided into electoral districts. The board of commissioners or the clerk of superior court, as the case may be, shall consult the county executive committee of the appropriate political party before filling a vacancy, but neither the board nor the clerk of the superior court is bound by the committee's recommendation.

"§ 153-28. **Compensation of board of commissioners.** — The board of commissioners may fix the compensation and allowances of the chairman and other members of the board by inclusion of the compensation and allowances in and adoption of the budget ordinance. In addition, if the chairman or any other member of the board becomes a full-time county official, pursuant to G.S. 153-81 or 153-84, his compensation and allowances may be adjusted at any time during his service as a full-time official, for the duration of that service.

"§ 153-29. **Fidelity bonds.** — (a) Each officer, employee, or agent of a county who handles or has in his custody more than one hundred dollars (\$100.00) of county funds at any time shall, before being entitled to assume his duties, give bond with sufficient sureties payable to the county that he will faithfully perform the duties of his office, employment, or agency and will render a true accounting for all county funds that may come into his custody or control. The

board of commissioners shall determine the amount of the bond. Unless the bond is otherwise required by law, the board may waive the faithful performance bond, but it may not waive the true accounting bond. The county may pay the premium on any bond. Each bond, when approved by the board of commissioners, shall be deposited with the clerk.

If another statute requires an officer, employee, or agent to be bonded, this subsection does not require an additional bond for that officer, employee, or agent.

(b) A county may adopt a system of blanket faithful performance or true accounting bonding as an alternative to individual bonds. If such a system is adopted, statutory requirements of individual bonds, except for elected county officers and for finance officers and tax collectors by whatever title known, do not apply to an officer, employee, or agent covered by the blanket bond.

"Part 2. Structure of the Board of Commissioners

"§ 153-34. **Structure of boards of commissioners.** — Each county is governed by a board of commissioners. The structure and manner of election of the board of commissioners in each county shall remain as it is on the effective date of this act, until changed in accordance with law."

"Part 3. Organization and Procedures of the Board of 1238 Commissioners

"§ 153-39. **Selection of chairman and vice-chairman; powers and duties.** — At its first regular meeting in December of each year, the board of commissioners shall choose one of its members as chairman for the ensuing year, unless the chairman is elected as such by the people or otherwise designated by law. The board shall also at that time choose a vice-chairman to act in the absence or disability of the chairman. If the chairman and the vice-chairman are both absent from a meeting of the board, the members present may choose a temporary chairman.

The chairman is the presiding officer of the board of commissioners. Unless excused by rule of the board, the presiding officer has the duty to vote on any question before the board, but he has no right to break a tie vote in which he participated.

"§ 153-40. **Regular and special meetings.** — (a) The board of commissioners shall hold a regular meeting at least once a month, and may hold more frequent regular meetings. The board may by resolution fix the time and place of its regular meetings. If such a resolution is adopted, at least 10 days before the first meeting to which the resolution is to apply, the board shall cause a copy of it to be posted on the courthouse bulletin board and a summary of it to be published. If no such resolution is adopted, the board shall meet at the courthouse on the first Monday of each month, or on the next succeeding business day if the first Monday is a holiday.

If use of the courthouse or other designated regular meeting place is made temporarily impossible, inconvenient, or unwise, the board may change the time or place or both of a regular meeting or of all regular meetings within a specified period of time. The board shall cause notice of the temporary change to be posted at or near the regular meeting place and shall take any other action it considers helpful in informing the public of the temporary change.

The board may adjourn a regular meeting from day to day or to a day certain until the business before the board is completed.

(b) The chairman or a majority of the members of the board may at any time call a special meeting of the board of commissioners by signing a written notice stating the time and place of the meeting and the subjects to be considered. The person or persons calling the meeting shall cause the notice to be delivered to the chairman and each other member of the board or left at the usual dwelling place of each at least 48 hours before the meeting and shall cause a copy of the notice to be posted on the courthouse bulletin board at least 48 hours before the meeting. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or those not present have signed a written waiver.

If a special meeting is called to deal with an emergency, the notice requirements of this subsection do not apply. However, the person or persons calling such a special meeting shall take reasonable action to inform the other members and the public of the meeting. Only

business connected with the emergency may be discussed at a meeting called pursuant to this paragraph.

(c) The board of commissioners shall hold all its meetings within the county.

"§ 153-41. **Procedures.** — The board of commissioners may adopt its own rules of procedure, in keeping with the size and nature of the board and in the spirit of generally accepted principles of parliamentary procedure.

"§ 153-42. **Minutes to be kept; ayes and noes.** — The clerk shall keep full and accurate minutes of the proceedings of the board of commissioners, which shall be available for public inspection. The clerk shall record the results of each vote in the minutes; and upon the request of any member of the board, the ayes and noes upon any question shall be taken and recorded.

"§ 153-43. **Quorum.** — A majority of the membership of the board of commissioners constitutes a quorum. The number required for a quorum is not affected by vacancies. If a member has withdrawn from a meeting without being excused by majority vote of the remaining members present, he shall be counted as present for the purposes of determining whether a quorum is present. The board may compel the attendance of an absent member by ordering the sheriff to take the member into custody.

"§ 153-44. **Members excused from voting.** — The board may excuse a member from voting, but only upon questions involving his own financial interest or his official conduct. (For purposes of this section, the question of the compensation and allowances of members of the board does not involve a member's own financial interest or official conduct.)

"§ 153-45. **Adoption of ordinances.** — To be adopted at the meeting at which it is first introduced, an ordinance or any action having the effect of an ordinance (except the budget ordinance, any bond order, or any other ordinance on which a public hearing must be held before the ordinance may be adopted) must receive the approval of all the members of the board of commissioners. If the ordinance is approved by a majority of those voting but not by all the members of the board, or if the ordinance is not voted on at that meeting, it shall be considered at the next regular meeting of the board. If it then or at any time thereafter within 100 days of its introduction receives a majority of the votes cast, a quorum being present, the ordinance is adopted.

"§ 153-46. **Franchises.** — No ordinance making a grant, renewal, extension, or amendment of any franchise may be finally adopted until it has been passed at two regular meetings of the board of commissioners. No such grant, renewal, extension, or amendment may be made except by ordinance.

"§ 153-47. **Technical ordinances.**— Subject to G.S. 143-138(e), a county may in an ordinance adopt by reference a published technical code or a standard or regulation promulgated by a public agency. A technical code or standard or regulation so adopted has the force of law in any area of the county in which the ordinance is applicable. An official copy of a technical code or standard or regulation adopted by reference shall be available for public inspection in the office of the clerk and need not be filed in the ordinance book.

"§ 153-48. **Ordinance book.** — The clerk shall maintain an ordinance book, separate from the minute book of the board of commissioners. The ordinance book shall be indexed and shall be available for public inspection in the office of the clerk. Except as provided in this section and in G.S. 153-47, each county ordinance shall be filed and indexed in the ordinance book.

The budget ordinance and any amendments thereto, any bond order, and any other ordinance of limited interest or transitory nature may be omitted from the ordinance book. However, the ordinance book shall contain a section showing the caption of each omitted ordinance and the page in the commissioners' minute book at which the ordinance may be found.

If a county adopts and issues a code of its ordinances, county ordinances need be recorded and indexed in the ordinance book only until they are placed in the codification.

"§ 153-49. **Code of ordinances.** — A county may adopt and issue a code of its ordinances. The code may be reproduced by any method that gives legible and permanent copies, and may be issued as a securely bound book or books with periodic separately bound supplements, or as a loose-leaf book maintained by replacement pages. Supplements or replacement pages should be adopted and issued at least annually, unless there have been no additions to or modifications of the code during the year.

A code may consist of two parts, the 'General Ordinances' and the 'Technical Ordinances.' The technical ordinances may be published as separate books or pamphlets, and may include ordinances regarding the construction of buildings, the installation of plumbing and electric wiring, and the installation of cooling and heating equipment; ordinances regarding the use of public utilities, buildings, or facilities operated by the county; the zoning ordinance; the subdivision control ordinance; the privilege license tax ordinance; and other similar ordinances designated as technical ordinances by the board of commissioners. The board may omit from the code the budget ordinance, any bond orders, and other designated classes of ordinances of limited interest or transitory nature, but the code shall clearly describe the classes of ordinances omitted from it.

The board of commissioners may provide that ordinances (i) establishing or amending the boundaries of county zoning areas or (ii) establishing or amending the boundaries of zoning districts shall be codified by appropriate entries upon official map books to be retained permanently in the office of the clerk or some other county office generally accessible to the public.

"§ 153-50. **Pleading and proving county ordinances.** — County ordinances shall be pleaded and proved under the rules and procedures of G.S. 160A-79. References to G.S. 160A-77 and G.S. 160A-78 appearing in G.S. 160A-79 are deemed, for purposes of this section, to refer to G.S. 153-49 and G.S. 153-48, respectively.

"§ 153-52. **Conduct of public hearing.** — The board of commissioners may hold public hearings at any place within the county. The board may adopt reasonable rules governing the conduct of public hearings, including but not limited to rules (i) fixing the maximum time allotted to each speaker, (ii) providing for the designation of spokesmen for groups of persons supporting or opposing the same position, (iii) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall, and (iv) providing for the maintenance of order and decorum in the conduct of the hearing.

The board may continue a public hearing without further advertisement. If a public hearing is set for a given date and a quorum of the board is not then present, the board shall continue the hearing without further advertisement until its next regular meeting.

"Part 4. Modification in the Structure of the Board of Commissioners

"§ 153-58. **Optional structures.** — A county may alter the structure of its board of commissioners by adopting one or any combination of the options prescribed by this section.

- (1) Number of members of the board of commissioners:  
The board may consist of any number of members not less than three, except as limited by subsection 2(d) of this section.
- (2) Terms of office of members of the board of commissioners:
  - a. Members shall be elected for two-year terms of office.
  - b. Members shall be elected for four-year terms of office.
  - c. Members shall be elected for overlapping four-year terms of office.
  - d. The board shall consist of an odd number of members, who are elected for a combination of four and two-year terms of office, so that a majority of members is elected each two years. This option may be used only if all members of the board are nominated and

elected by the voters of the entire county, and only if the chairman of the board is elected by and from the members of the board.

- (3) Mode of election of the board of commissioners:
- a. The qualified voters of the entire county shall nominate all candidates for and elect all members of the board.
- For options b, c, and d, the county shall be divided into electoral districts, and board members shall be apportioned to the districts so that the quotients obtained by dividing the population of each district by the number of commissioners apportioned to the district are as nearly equal as practicable.
- b. The qualified voters of each district shall nominate candidates and elect members who reside in the district for seats apportioned to that district; and the qualified voters of the entire county shall nominate candidates and elect members apportioned to the county at large, if any.
  - c. The qualified voters of each district shall nominate candidates who reside in the district for seats apportioned to that district, and the qualified voters of the entire county shall nominate candidates for seats apportioned to the county at large, if any; and the qualified voters of the entire county shall elect all the members of the board.
  - d. Members shall reside in and represent the districts according to the apportionment plan adopted, but the qualified voters of the entire county shall nominate all candidates for and elect all members of the board.

If any of options b, c, or d is adopted, the board shall divide the county into the requisite number of electoral districts according to the apportionment plan adopted, and shall cause a delineation of the districts so laid out to be drawn up and filed as required by G.S. 153-20. No more than half the board may be apportioned to the county at large.

- (4) Selection of chairman of the board of commissioners:
- a. The board shall elect a chairman from among its membership to serve a one-year term, as provided by G.S. 153-39.
  - b. The chairmanship shall be a separate office. The qualified voters of the entire county nominate candidates for and elect the chairman for a two or four-year term.

**"§ 153-59. Implementation when board has members serving a combination of four and two-year terms.** — If the structure of the board of commissioners is altered to establish a board with an odd number of members serving a combination of four and two-year terms of office, the new structure shall be implemented as follows: At the first election all members of the board shall be elected. A simple majority of those elected shall be elected for two-year terms, and the remaining members shall be elected for four-year terms. The candidate or candidates receiving the highest number of votes shall be elected for the four-year terms.

At each subsequent general election, a simple majority of the board shall be elected. That candidate who is elected with the least number of votes shall be elected for a two-year term, and the other member or members elected shall be elected for four-year terms.

**"§ 153-60. Initiation of alterations by resolution.** — The board of commissioners shall initiate any alteration in the structure of the board by adopting a resolution. The resolution shall:

- (1) Briefly but completely describe the proposed alterations;
- (2) Prescribe the manner of transition from the existing structure to the altered structure;

- (3) Define the electoral districts, if any, and apportion the members among the districts;
- (4) Call a referendum on the question of adoption of the alterations. The referendum may be held at the same time as any other referendum or election in the county, but may not otherwise be held within the period of time beginning 30 days before and ending 30 days after the day of any other referendum or election conducted by the county board of elections and already validly called or scheduled by law at the time the referendum on alteration of structure is called. In addition, the referendum may not be held during the period beginning 30 days before the last day for filing notice of candidacy for county offices and ending on the day before the next succeeding general election.

Upon its adoption, the resolution shall be published in full.

**"§ 153-61. Submission of proposition to voters; form of ballot.** — A proposition to approve an alteration shall be printed on the ballot in substantially the following form:

'Shall the structure of the board of commissioners be altered? (Describe the effect of the alteration.)

YES

NO'

The ballot shall be separate from other ballots used at the election.

If a majority of the votes cast on the proposition are in the affirmative, the plan contained in the resolution shall be put into effect as provided in this part. If a majority of the votes cast are in the negative, the resolution and the plan contained therein are void.

**"§ 153-62. Effective date of any alteration.** — Any approved alteration shall be the basis for nominating and electing the members of the board of commissioners at the first succeeding primary and general election for county offices held after approval of the alteration; and the alteration takes effect on the first Monday in December following that general election.

**"§ 153-63. Filing copy of resolution; notice to Revisor of Statutes.** — A copy of a resolution approved pursuant to this part shall be filed and indexed in the ordinance book required by G.S. 153-47.

"Article 5

"Administration

"Part 1. Organization and Reorganization of County Government

**"§ 153-76. Board of commissioners to organize county government.** — The board of commissioners may create, change, abolish, and consolidate offices, positions, departments, boards, commissions, and agencies of the county government, may impose ex-officio the duties of more than one office on a single officer, may change the composition and manner of selection of boards, commissions, and agencies, and may generally organize and reorganize the county government in order to promote orderly and efficient administration of county affairs, subject to the following limitations:

- (1) The board may not abolish an office, position, department, board, commission, or agency established or required by law.
- (2) The board may not combine offices or confer certain duties on the same officer when this action is specifically forbidden by law.
- (3) The board may not discontinue or assign elsewhere a function or duty assigned by law to a particular office, position, department, board, commission, or agency.
- (4) The board may not change the composition or manner of selection of a local board of education, the board of health, the board of social services, the board of elections, or the board of alcoholic beverage control.

"Part 2. Administration in Counties Having Managers

**"§ 153-81. Adoption of county-manager plan; appointment or designation of manager.** — The board of commissioners may by resolution adopt or discontinue the county-manager plan. If it adopts the county-manager plan, the board may, in the alternative:

- (1) Appoint a county manager to serve at its pleasure. The manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the county or the State at the time of his appointment.
- (2) Confer upon the chairman or some other member of the board of commissioners the duties of county manager. If this is done, the chairman or member shall become a full-time county official, and the board may increase his salary pursuant to G.S. 153-28.
- (3) Confer upon any other officer, employee, or agent of the county the duties of county manager.

As used in this part, the word 'manager' includes the chairman or any member of the board of commissioners exercising the duties of manager or any officer, employee, or agent of a county exercising the duties of manager.

**"§ 153-82. Powers and duties of manager.** — The manager is the chief administrator of county government. He is responsible to the board of commissioners for the administration of all departments of county government under the board's general control and has the following powers and duties:

- (1) He shall appoint with the approval of the board of commissioners and suspend or remove all county officers, employees, and agents except those who are elected by the people or whose appointment is otherwise provided for by law. The board may by resolution permit the manager to appoint officers, employees, and agents without first securing the board's approval. The manager shall make his appointments, suspensions, and removals in accordance with any general personnel rules, regulations, policies, or ordinances that the board may adopt. The board may require the manager to report each suspension or removal to the board at the board's first regular meeting following the suspension or removal; and, if the board has permitted the manager to make appointments without board approval, the board may require the manager to report each appointment to the board at the board's first regular meeting following the appointment.
- (2) He shall direct and supervise the administration of all county offices, departments, boards, commissions, and agencies under the general control of the board of commissioners, subject to the general direction and control of the board.
- (3) He shall attend all meetings of the board of commissioners and recommend any measures that he considers expedient.
- (4) He shall see that the orders, ordinances, resolutions, and regulations of the board of commissioners are faithfully executed within the county.
- (5) He shall prepare and submit the annual budget and capital program to the board of commissioners.
- (6) He shall annually submit to the board of commissioners and make available to the public a complete report on the finances and administrative activities of the county as of the end of the fiscal year.
- (7) He shall make any other reports that the board of commissioners may require concerning the operations of county offices, departments, boards, commissions, and agencies.
- (8) He shall perform any other duties that may be required or authorized by the board of commissioners.

"§ 153-83. **Acting county manager.** — By letter filed with the clerk, the manager may designate, subject to the approval of the board of commissioners, a qualified person to exercise the powers and perform the duties of manager during the manager's temporary absence or disability. During an absence or disability, the board may revoke the designation at any time and appoint another person to serve until the manager returns or his disability ceases.

"§ 153-84. **Interim county manager.** — Whenever the position of county manager is vacant, the board of commissioners shall designate a qualified person to exercise the powers and perform the duties of manager until the vacancy is filled. The board may designate the chairman or some other member as interim manager; for the interim the chairman or member shall become a full-time county official, and the board may increase his salary pursuant to G.S. 153-28.

"Part 3. Administration in Counties Not Having Managers

"§ 153-87. **Administration in counties not having managers.** — In a county that has not adopted or does not operate under the county-manager plan, the board of commissioners shall appoint, suspend, and remove all county officers, employees, and agents except those who are elected by the people or whose appointment is otherwise provided for by law. The board may delegate to the head of any county department the power to appoint, suspend, and remove county officers or employees assigned to his department.

"§ 153-88. **Acting department heads.** — By letter filed with the clerk, the head of a department may designate, subject to the approval of the board of commissioners, a qualified person to exercise the powers and perform the duties of head of that department during the department head's temporary absence or disability. During an absence or disability, the board may revoke the designation at any time and appoint another person to serve until the department head returns or his disability ceases.

"§ 153-89. **Interim department heads.** — Whenever the position of head of a department is vacant, the board may designate a qualified person to exercise the powers and perform the duties of head of the department until the vacancy is filled.

"Part 4. Personnel

"§ 153-92. **Compensation.** — (a) Subject to the limitations set forth in subsection (b) of this section, the board of commissioners shall fix or approve the schedule of pay, expense allowances, and other compensation of all county officers and employees, whether elected or appointed, and may adopt position classification plans.

(b) In exercising the authority granted by subsection (a) of this section, the board of commissioners is subject to the following limitations:

- (1) The board of commissioners may not reduce the salary, allowances, or other compensation paid to an officer elected by the people for the duties of his elective office if the reduction is to take effect during the term of office for which the incumbent officer has been elected, unless the officer agrees to the reduction or unless the Local Government Commission pursuant to G.S. Chapter 159, Article 10, orders a reduction.
- (2) During the year of a general election, the board of commissioners may reduce the salary, allowances, or other compensation of an officer to be elected at the general election only in accordance with this paragraph. The board of commissioners shall by resolution give notice of intention to make the reduction no later than 14 days before the last day for filing notice of candidacy for the office. The resolution shall set forth the reduced salary, allowances, and other compensation and shall provide that the reduction is to take effect at the time the person elected to the office in the general election takes office. Once adopted, the resolution may not be altered until the person elected to the office in the general election has taken office. The filing fee for the office shall be determined by reference to the reduced salary.

- (3) If the board of commissioners reduces the salaries, allowances, or other compensation of employees assigned to an officer elected by the people, and the reduction does not apply alike to all county offices and departments, the elected officer involved must approve the reduction. If the elected officer refuses to approve the reduction, he and the board of commissioners shall meet and attempt to reach agreement. If agreement cannot be reached, either the board or the officer may refer the dispute to arbitration by the senior regular resident superior court judge of the judicial district in which the county is located. The judge shall make an award within 30 days after the day the matter is referred to him. The award may extend for no more than two fiscal years, including the fiscal year for which it is made.
- (4) The board of commissioners shall fix their own salaries, allowances, and other compensation in accordance with G.S. 153-28.
- (5) The board of commissioners shall fix the salaries, allowances and other compensation of county employees subject to the State Personnel Act according to the procedures set forth in G.S. Chapter 126. The board may make these employees subject to a county position classification plan only as provided in G.S. Chapter 126.

(c) In counties with a county manager, the manager is responsible for preparing position classification and pay plans for submission to the board of commissioners and for administering the pay plan and any position classification plan in accordance with general policies and directives adopted by the board. In counties without a county manager, the board of commissioners shall appoint or designate a personnel officer, who shall then be responsible for administering the pay plan and any position classification plan in accordance with general policies and directives adopted by the board.

(d) A county may purchase life insurance or health insurance or both for the benefit of all or any class of county officers and employees as a part of their compensation. A county may provide other fringe benefits for county officers and employees.

**"§ 153-93. Retirement benefits.** — (a) The board of commissioners may provide for enrolling county officers and employees in the Local Governmental Employees' Retirement System, the Law Enforcement Officers' Benefit and Relief Fund, the Firemen's Pension Fund, or a retirement plan certified to be actuarially sound by a qualified actuary as defined in subsection (c) of this section and may make payments into such a retirement system or plan on behalf of its employees.

(b) No county may make payments into a retirement system or plan established or authorized by a local act unless the system or plan is certified to be actuarially sound by a qualified actuary as defined in subsection (c) of this section.

(c) A qualified actuary means a member of the American Academy of Actuaries or an individual certified as qualified by the Commissioner of Insurance.

**"§ 153-94. Personnel rules; office hours, workdays, and holidays.** — (a) The board of commissioners may adopt or provide for rules and regulations or ordinances concerning but not limited to annual leave, sick leave, special leave with full pay or with partial pay supplementing workmen's compensation payments for employees injured in accidents arising out of and in the course of employment, working conditions, service award and incentive award programs, other personnel policies, and any other measures that promote the hiring and retention of capable, diligent, and honest career employees.

(b) The board of commissioners may prescribe the office hours, workdays, and holidays to be observed by the various offices, departments, boards, commissions, and agencies of the county.

**"§ 153-95. Personnel board.** — The board of commissioners may establish a personnel board with authority, as regards employees in offices, departments, boards, commissions, and

agencies under the general control of the board of commissioners, to administer tests designed to determine the merit and fitness of candidates for appointment or promotion, to conduct hearings upon the appeal of employees who have been suspended, demoted, or discharged, to hear employee grievances, or to undertake any other duties relating to personnel administration that the board of commissioners may direct.

"§ 153-96. **Participation in the Social Security Act.** — The board of commissioners may take any action necessary to allow county officers and employees to participate fully in benefits provided by the Federal Social Security Act.

"§ 153-97. **Defense of officers and employees.** — A county may, pursuant to G.S. 160A-167, provide for the defense of any county officer or employee, including the county board of elections or any county election official.

"Part 5. Board of Commissioners and Other Officers, Boards, Departments, and Agencies of  
the County

"§ 153-101. **Board of commissioners to direct fiscal policy of the county.** — The board of commissioners has and shall exercise the responsibility of developing and directing the fiscal policy of the county government under the provisions and procedures of The Local Government Budget and Fiscal Control Act.

"§ 153-102. **Commissioners to fix fees.** — The board of commissioners may fix the fees and commissions charged by county officers and employees for performing services or duties permitted or required by law. The Board may not, however, fix fees in the general court of justice or modify the fees of the register of deeds prescribed by G.S. 161-1 or the fees of the board of elections prescribed by G.S. 163-107.

"§ 153-103. **Number of employees in office of sheriff and register of deeds.** — Subject to the limitations set forth below, the board of commissioners may fix the number of salaried employees in the offices of the sheriff and the register of deeds. In exercising the authority granted by this section, the board of commissioners is subject to the following limitations:

- (1) Each sheriff and register of deeds elected by the people has the exclusive right to hire, discharge, and supervise the employees in his office. However, the board of commissioners must approve the appointment by such an officer of a relative by blood or marriage of nearer kinship than first cousin or of a person who has been convicted of a crime involving moral turpitude.
- (2) Each sheriff and register of deeds elected by the people is entitled to at least one deputy, who shall be reasonably compensated by the county.

"§ 153-104. **Reports from officers, employees, and agents of the county.** — The board of commissioners may require any officer, employee, or agent of the county to make to the board, either directly or through the county manager, periodic or special reports concerning any matter connected with the officer's, employee's or agent's duties. The board may require that such a report be made under oath. If a person fails or refuses to obey a reasonable order to make a report, issued pursuant to this section, the board may apply to the appropriate division of the General Court of Justice for an order requiring that its order be obeyed. The court has jurisdiction to issue these orders.

"Part 6. Clerk to the Board of Commissioners

"§ 153-111. **Appointment; powers and duties.**— The board of commissioners shall appoint or designate a clerk to the board. The board may designate the register of deeds or any other county officer or employee as clerk. The clerk shall perform any duties that may be required by law or the board of commissioners. The clerk shall serve as such at the pleasure of the board.

"Part 7. County Attorney

"§ 153-114. **Appointment; duties.** — The board of commissioners shall appoint a county attorney to serve at its pleasure and to be its legal adviser.

"Article 6

"Delegation and Exercise of the General Police Power

**"§ 153-121. General ordinance making power.** — (a) A county may by ordinance define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the county; and may define and abate nuisances.

(b) This section does not authorize a county to regulate or control vehicular or pedestrian traffic on a street or highway under the control of the State Highway Commission, nor to regulate or control any right-of-way or right-of-passage belonging to a public utility, electric or telephone membership corporation, or public agency of the State. In addition, no county ordinance may regulate or control a highway right-of-way in a manner inconsistent with State law or an ordinance of the State Highway Commission.

(c) This section does not impair the authority of local boards of health to adopt rules and regulations to protect and promote public health.

**"§ 153-122. Territorial jurisdiction of county ordinances.** — Except as otherwise provided in this article, the board of commissioners may make any ordinance adopted pursuant to this article applicable to any part of the county not within a city. In addition, the governing board of a city may by resolution permit a county ordinance adopted pursuant to this article to be applicable within the city. The city may by resolution withdraw its permission to such an ordinance. If it does so, the city shall give written notice to the county of its withdrawal of permission; 30 days after the day the county receives this notice the county ordinance ceases to be applicable within the city.

**"§ 153-123. Enforcement of ordinances.** — (a) A county may provide for fines and penalties for violation of its ordinances and may secure injunctions and abatement orders to further insure compliance with its ordinances, as provided by this section.

(b) Unless the board of commissioners has provided otherwise, violation of a county ordinance is a misdemeanor as provided by G.S. 14-4. An ordinance may provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation is some amount of money or number of days less than the maximum fine or term prescribed by G.S. 14-4.

(c) An ordinance may provide that violation subjects the offender to a civil penalty to be recovered by the county in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance.

(d) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such a case, the General Court of Justice has jurisdiction to issue any order that may be appropriate, and it is not a defense to the county's application for equitable relief that there is an adequate remedy at law.

(e) An ordinance that makes unlawful a condition existing upon or use made of real property may provide that it may be enforced by injunction and order of abatement, and the General Court of Justice has jurisdiction to issue such an order. When a violation of such an ordinance occurs, the county may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt and the county may execute the order of abatement. If the county

executes the order, it has a lien on the property, in the nature of a mechanic's and materialman's lien, for the costs of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter was heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.

(f) Subject to the express terms of the ordinance, a county ordinance may be enforced by any one or more of the remedies authorized by this section.

(g) A county ordinance may provide, when appropriate, that each day's continuing violation is a separate and distinct offense.

**"§ 153-124. Enumeration not exclusive.** — The enumeration in this article or other portions of this chapter of specific powers to define, regulate, prohibit, or abate acts, omissions, or conditions is not exclusive, nor is it a limit on the general authority to adopt ordinances conferred on counties by G.S. 153-121.

**"§ 153-125. Regulation of solicitation campaigns and itinerant merchants.** — A county may by ordinance regulate, restrict, or prohibit the solicitation of contributions from the public for charitable or eleemosynary purposes, and also the business activities of itinerant merchants, salesmen, promoters, drummers, peddlers, and hawkers. These ordinances may include, but are not limited to, requirements that an application be made and a permit issued, that an investigation be made, that activities be reasonably limited as to time and place, that proper credentials and proof of financial stability be submitted, that not more than a stated percentage of contributions to solicitation campaigns be retained for administrative expenses, and that an adequate bond be posted to protect the public from fraud. A county may charge a fee for a permit issued pursuant to such an ordinance.

**"§ 153-126. Regulation of begging.** — A county may by ordinance prohibit or regulate begging or otherwise canvassing the public for contributions for the private benefit of the solicitor or any other person.

**"§ 153-127. Abuse of animals.** — A county may by ordinance define and prohibit the abuse of animals.

**"§ 153-128. Regulation of explosive, corrosive, inflammable, or radioactive substances.** — A county may by ordinance regulate, restrict, or prohibit the sale, possession, storage, use or conveyance of any explosive, corrosive, inflammable, or radioactive substance or of any weapon or instrumentality of mass death and destruction.

**"§ 153-129. Firearms.** — A county may by ordinance regulate, restrict, or prohibit the discharge of firearms at any time or place except when used to take birds or animals pursuant to G.S. Chapter 113, Subchapter III, when used in defense of person or property, or when used pursuant to lawful directions of law enforcement officers. A county may also regulate the display of firearms on the public roads, sidewalks, alleys, or other public property. This section does not limit a county's authority to take action under G.S. Chapter 14, Article 36A.

**"§ 153-130. Pellet guns.** — A county may by ordinance regulate, restrict, or prohibit the sale, possession, or use of pellet guns or any other mechanism or device designed or used to project a missile by compressed air or mechanical action with less than deadly force.

**"§ 153-131. Possession or harboring of wild animals.** — A county may by ordinance regulate, restrict, or prohibit the possession or harboring of wild animals dangerous to person or property or offensive to the senses.

**"§ 153-132. Removal and disposal of abandoned and junked motor vehicles.** — (a) Grant of power. — A county may by ordinance prohibit the abandonment of motor vehicles on public grounds and private property within the county's ordinance-making jurisdiction and on county-owned property wherever located. The county may enforce the ordinance by removing and

disposing of abandoned or junked motor vehicles according to the procedures prescribed in this section.

(b) Definitions. — 'Motor vehicle' includes any machine designed or intended to travel over land or water by self-propulsion or while attached to self-propelled vehicle.

An 'abandoned motor vehicle' is one that:

- (1) Is left on public grounds or county-owned property in violation of a law or ordinance prohibiting parking; or
- (2) Is left for longer than 24 hours on property owned or operated by the county; or
- (3) Is left for longer than two hours on private property without the consent of the owner, occupant, or lessee of the property; or
- (4) Is left for longer than seven days on public grounds.

A 'junked motor vehicle' is an abandoned motor vehicle that also:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than one hundred dollars (\$100.00); or
- (4) Does not display a current license plate.

(c) Removal of vehicles. — A county may remove to a storage garage or area an abandoned or junked motor vehicle found to be in violation of an ordinance adopted pursuant to this section. A vehicle may not be removed from private property, however, without the written request of the owner, lessee, or occupant of the premises unless the board of commissioners or a duly authorized county official or employee has declared the vehicle to be a health or safety hazard. Appropriate county officers and employees have a right, upon presentation of proper credentials, to enter on any premises within the county ordinance-making jurisdiction at any reasonable hour in order to determine if any vehicles are health or safety hazards. The county may require a person requesting the removal from private property of an abandoned or junked motor vehicle to indemnify the county against any loss, expense, or liability incurred because of the vehicle's removal, storage, or sale.

When an abandoned or junked motor vehicle is removed, the county shall promptly give written notice of the removal to the registered owner at his last known address according to the latest registration certificate or certificate of title on file with the Department of Motor Vehicles. The notice shall inform the owner of the possible sale or other disposition that may be made of the vehicle under this section. The owner may regain possession of the vehicle by paying to the county all reasonable costs incidental to the removal and storage. If the vehicle does not display a current license plate and the vehicle identification numbers have been removed or defaced so as to be illegible, the county need not give notice to the vehicle's registered owner.

(d) Disposal of abandoned motor vehicles. — After holding an abandoned motor vehicle for 30 days after the day the vehicle is removed, the county may sell or dispose of it as provided in this subsection.

If the vehicle appears to be worth less than one hundred dollars (\$100.00), the county may dispose of the vehicle as a junked motor vehicle as provided by subsection (e) of this section. With the consent of the owner, the county may remove and dispose of a motor vehicle as a junked motor vehicle without regard to the value, condition, or age of the vehicle and without holding it for any prescribed period of time.

If the vehicle appears to be worth one hundred dollars (\$100.00) or more, it shall be sold at public auction. The county shall give 20 days written notice of the sale to the registered owner at his last known address, to each holder of a lien of record against the vehicle, and to the Department of Motor Vehicles. Any person having an interest in the vehicle may redeem it at

any time before the sale by paying all costs accrued to date. The proceeds of the sale shall be paid to the county finance officer, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale, and liens, in that order. The remainder of the proceeds of sale, if any, shall be paid over to the registered owner, or held by the county for 60 days if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within 60 days after the day of the sale, the funds shall be deposited in the county's general fund and the owner's rights in the vehicle are extinguished. When it receives a county's bill of sale from a purchaser or other person entitled to receive a vehicle disposed of as provided in this subsection, the Department of Motor Vehicles shall issue a certificate of title for the vehicle as required by law.

(e) Disposal of junked motor vehicles. — After holding a junked motor vehicle for 15 days, the county may destroy it or sell it at private sale as junk. Within 15 days after final disposition of a junked motor vehicle, the county shall notify the Department of Motor Vehicles that the vehicle has been determined to be a junked motor vehicle and has been disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined. The proceeds of the sale of a junked motor vehicle shall be paid to the county finance officer, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale, and liens, in that order. The remainder of the proceeds of sale, if any, shall be held by the county for 30 days and paid to the registered owner upon demand. If the owner does not claim the remainder of the proceeds within 30 days after the day the vehicle is disposed of, the funds shall be deposited in the county's general fund, and the owner's rights in the vehicle are extinguished.

(f) Disposal of vehicles without plates or identification numbers. — If a junked motor vehicle does not display a current license plate and the vehicle identification numbers have been removed or defaced so as to be illegible, a county may dispose of it under this subsection rather than subsections (d) or (e). The county may destroy the vehicle or sell it at private sale (without regard to value), after having held the vehicle for 48 hours. The proceeds shall be placed in the county's general fund.

(g) No liability. — No person nor any county may be held to answer in a civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, junked, lost, or stolen motor vehicle for disposing of the vehicle as provided in this section.

(h) Exceptions. — This section does not apply to any vehicle in an enclosed building, to any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the county.

**"§ 153-133. Noise regulation.** — A county may by ordinance regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens.

**"§ 153-134. Regulating and licensing businesses, trades, etc.** — A county may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the county may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor. This section does not authorize a county to examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade that he has been licensed to practice or pursue by the State.

This section does not impair the county's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 153-152.

**"§ 153-135. Regulation of places of amusement.** — A county may by ordinance regulate places of amusement and entertainment, and may regulate, restrict, or prohibit the operation of

pool and billiard halls, dance halls, carnivals, circuses, or itinerant shows or exhibitions of any kind. Places of amusement and entertainment include coffee houses, cocktail lounges, night clubs, beer halls, and similar establishments, but any regulation of such places shall be consistent with any permit or license issued by the State Board of Alcoholic Control.

**"§ 153-136. Regulation of solid wastes.** — (a) A county may by ordinance regulate the storage, collection, transportation, use, disposal, and other disposition of solid wastes. Such an ordinance may:

- (1) Regulate the activities of persons, firms, and corporations, both public and private.
- (2) Require each person wishing to commercially collect or dispose of solid wastes to secure a license from the county and prohibit any person from commercially collecting or disposing of solid wastes without a license. A fee may be charged for a license.
- (3) Grant a franchise to one or more persons for the exclusive right to commercially collect or dispose of solid wastes within all or a defined portion of the county and prohibit any other person from commercially collecting or disposing of solid wastes in that area. The board of commissioners may set the terms of any franchise, except that no franchise may be granted for a period exceeding seven years, nor may any franchise by its terms impair the authority of the board of commissioners to regulate fees as authorized by this section.
- (4) Regulate the fees, if any, that may be charged by licensed or franchised persons for collecting or disposing of solid wastes.
- (5) Include any other proper matter.

(b) Any ordinance adopted pursuant to this section shall be consistent with and supplementary to any regulations adopted by the State Board of Health.

**"§ 153-137. Cable television franchises.** — Consistent with the rules and regulations of the Federal Communications Commission, a county may by ordinance grant upon reasonable terms franchises for the operation of cable television systems within any portion of the county, exclusive of incorporated areas and make it unlawful to operate such a system without a franchise. A franchise may not be granted for a period longer than the maximum term prescribed by the Federal Communications Commission.

As used in this section, 'cable television system' means a facility that, in whole or in part, receives directly or indirectly over the air and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television stations and distributes these signals by wire or cable to subscribing members of the public who pay for the service. 'Cable television system' does not include a facility that serves only the residents of one or more apartment dwellings under common ownership, control, or management and commercial establishments located on the premises of such an apartment dwelling.

"Article 7

"Taxation

**"§ 153-146. General power to impose taxes.** — A county may impose taxes only as specifically authorized by act of the General Assembly. Except when the statute authorizing a tax provides for penalties and interest, the power to impose a tax includes the power to impose reasonable penalties for failure to declare tax liability, if required, and to impose penalties or interest for failure to pay taxes lawfully due within the time prescribed by law or ordinance. The power to impose a tax also includes the power to provide for its administration in a manner not inconsistent with the statute authorizing the tax.

**"§ 153-147. Remedies for collecting taxes other than property taxes.** — In addition to any other remedies provided by law, a county may collect any county tax by use of the remedies of levy and sale and attachment and garnishment, under the rules and according to the procedures

prescribed by the Machinery Act (G.S. Chapter 105, Subchapter II) for the enforcement of tax liability against personal property. However, these remedies become available only on the due date of the tax and not before that time.

"§ 153-148. **Continuing taxes.** — Except for taxes levied on property under the Machinery Act (G.S. Chapter 105, Subchapter II), a county may impose any authorized tax by a permanent ordinance that shall stand from year to year until amended or repealed, and it is not necessary to reimpose the tax in each annual budget ordinance.

"§ 153-149. **Property taxes.**— (a) Pursuant to Article V, §2(5) of the Constitution of North Carolina, the General Assembly confers upon each county the power to levy, without restriction as to rate or amount, taxes on property having a situs within the county under the rules and according to the procedures prescribed in the Machinery Act (G.S. Chapter 105, Subchapter II), for the following purposes:

- (1) Administration. To provide for the general administration of the county through the board of commissioners, the office of the county manager, the office of the county finance officer, the office of the county tax supervisor, the office of the county tax collector, the county purchasing agent, the county attorney, and for all other general administrative costs not allocated to a particular office, department, board, commission, agency, or activity.
- (2) Agricultural Extension. To provide for the county's share of the cost of maintaining and administering services offered by, through, or in cooperation with the North Carolina Agricultural Extension Service. and to provide for other agricultural programs.
- (3) Air Pollution. To maintain and administer air pollution control programs.
- (4) Ambulance Service. To provide ambulance services, rescue squads, and emergency medical services.
- (5) Animal Protection and Control. To provide animal protection and control programs.
- (6) Beach Erosion and Natural Disasters. To provide for shoreline protection, beach erosion control, and flood and hurricane protection.
- (7) Cemeteries. To provide for cemeteries.
- (8) Civil Defense. To provide for civil defense programs.
- (9) Courts. To provide adequate facilities for and the county's share of the cost of operating the General Court of Justice in the county.
- (10) Debt Service. To pay the principal of and interest on all general obligation bonds and notes of the county.
- (11) Debts and Judgments. To pay and discharge any valid debt of the county or any judgment lodged against it.
- (12) Deficits. To supply an unforeseen deficiency in the revenue, when revenues actually collected or received fall below revenue estimates made in good faith and in accordance with the Local Government Budget and Fiscal Control Act.
- (13) Elections. To provide for all federal, State, district, and county elections conducted in the county.
- (14) Fire Protection. To provide fire protection services and fire prevention programs.
- (15) Forest Protection. To provide forest management and protection programs.
- (16) Health. To provide for the county's share of maintaining and administering services offered by or through the county or district health department.
- (17) Human Relations. To undertake human relations programs.
- (18) Jails. To provide for the operation of a jail and other local confinement facilities.

- (19) Joint Undertakings. To cooperate with any other county, city, or unit of local government in providing any of the functions, services, or activities listed in this subsection.
- (20) Law Enforcement. To provide for the operation of the office of the sheriff of the county and for any other county law enforcement agency not under the sheriff's jurisdiction.
- (21) Mapping. To provide for mapping the lands of the county.
- (22) Medical Examiner. To provide for the county medical examiner or coroner.
- (23) Mental Health. To provide for the county's share of the cost of maintaining and administering services offered by or through the county or area mental health department.
- (24) National Guard and State Defense Militia. To provide armories for the use of the North Carolina National Guard, and to support the various organizations of the national guard and the State defense militia.
- (25) Planning. To provide for a program of planning and regulation of development.
- (26) Ports and Harbors. To participate in programs with the North Carolina Ports Authority and to provide for harbor masters.
- (27) Register of Deeds. To provide for the operation of the office of the register of deeds of the county.
- (28) Schools and Colleges. To provide for the county's share of the cost of public education.
- (29) Soil and watershed improvement. To undertake soil conservation and watershed improvement projects.
- (30) Sewers. To provide sewage collection and treatment services.
- (31) Social Services. To provide for the public welfare through the maintenance and administration of public assistance and other social service programs offered by or through the county department of social services and by establishing and maintaining a county home.
- (32) Solid Waste. To provide solid waste collection and disposal services.
- (33) Surveyor. To provide for a county surveyor.
- (34) Veterans' Service Officer. To provide for the county's share of the cost of services offered by or through the county veterans' service officer.
- (35) Water. To provide water supply and distribution services.
- (36) Water Resources. To participate in federal water resources development projects.

With respect to each category listed in this subsection, the county may provide the necessary personnel, land, buildings, equipment, supplies, and financial support for the program, service, or function.

This subsection does not authorize a county to undertake any program, service, or function not otherwise authorized by law. It is intended only to authorize the levy of property taxes without a vote of the people to finance programs, services, or functions authorized by other portions of the General Statutes and comprehended within one of the categories set out herein.

(b) The board of commissioners may call a referendum on the levy of property taxes for any purpose not listed in subsection (a) of this section for which the county is authorized by general law or local act to appropriate money. The referendum may be held at the same time as any other referendum or election held in the county, but may not otherwise be held within the period of time beginning 30 days before and ending 30 days after the day of any other referendum or election conducted by the county board of elections. The county board of elections shall conduct the election.

The proposition submitted to the voters shall be substantially in one of the following forms:

- (1) Shall \_\_\_\_\_ County be authorized to levy annually a property tax at a rate not in excess of \_\_\_\_ cents on the one hundred dollars value of property subject to taxation for the purpose of \_\_\_\_\_?
- (2) Shall \_\_\_\_\_ County be authorized to levy annually a property tax at a rate not in excess of that which will produce \$ \_\_\_\_\_ for the purpose of \_\_\_\_\_?
- (3) Shall \_\_\_\_\_ County be authorized to levy annually a property tax without restriction as to rate or amount for the purpose of \_\_\_\_\_?

If a majority of those voting on the proposition vote in the affirmative, the board of commissioners may proceed to levy annually a property tax within the limitations (if any) described in the proposition. Unless otherwise provided in the proposition submitted to the voters, a vote on a property tax levy not to exceed a specified rate per one hundred dollars value of property subject to taxation is a vote on an effective rate per one hundred dollars of appraised value of property before the application of any assessment ratio.

The referendum shall be held pursuant to the laws governing general elections under G.S. Chapter 163.

(c) This section does not invalidate any referendum held before July 1, 1973, on the levy of property taxes, and counties may continue to levy taxes pursuant to any such referendum.

**"§ 153-150. Reserve for octennial reappraisal.** — Before the beginning of the fiscal year immediately following the effective date of an octennial reappraisal of real property conducted as required by G.S. 105-286, the county budget officer shall present to the board of commissioners an eight-year budget for financing the cost of the next octennial reappraisal. The budget shall estimate the cost of the reappraisal and shall propose a plan for raising the necessary funds in eight annual installments during the next eight fiscal years, with all installments as nearly uniform as practicable. The board shall consider this budget, making any amendments to the budget it deems advisable, and shall adopt a resolution establishing a special reserve fund for the next octennial reappraisal. In the budget ordinance of the first fiscal year of the plan, the board of commissioners shall appropriate to the special reappraisal reserve fund the amount set out in the plan for the first year's installment. When the county budget for each succeeding fiscal year is in preparation, the board shall review the eight-year reappraisal budget with the budget officer and shall amend it, if necessary, so that it will reflect the probable cost at that time of the reappraisal and will produce the necessary funds at the end of the eight-year period. In the budget ordinance for each succeeding fiscal year, the board shall appropriate to the special reappraisal reserve fund the amount set out in the plan as due in that year.

Moneys appropriated to the special reappraisal reserve fund shall not be available or expended for any purpose other than the reappraisal of real property required by G.S. 105-286, except that the funds may be deposited at interest or invested as permitted by G.S. 159-30. If there is a fund balance in the reserve fund following payment for the required reappraisal, it shall be retained in the fund for use in financing the next required reappraisal.

Within ten days after the adoption of each annual budget ordinance, the county finance officer shall report to the State Board of Assessment, on forms to be supplied by the State Board, the terms of the county's eight-year reappraisal budget, the current condition of the special reappraisal reserve fund, and the amount appropriated to the reserve fund in the current fiscal year.

**"§ 153-151. Sales tax.** — A county may levy a local sales and use tax under the rules and according to the procedures prescribed by the Local Government Sales and Use Tax Act (G.S. Chapter 105, Subchapter VIII).

**"§ 153-152. Privilege license taxes.** — A county may levy privilege license taxes on trades, occupations, professions, businesses, and franchises to the extent authorized by Schedule B of

the Revenue Act (G.S. Chapter 105, Subchapter I, Article 2) and any other acts of the General Assembly.

"§ 153-153. **Animal tax.** — A county may levy an annual license tax on the privilege of keeping dogs and other pets within the county.

"§ 153-154. **Cable television franchise tax.** — A county may levy an annual franchise tax on cable television companies franchised under G.S. 153-137.

"Article 8

"County Property

"Part 1. Acquisition of Property

"§ 153-158. **Power to acquire property.** — A county may acquire, by gift, grant, devise, bequest, exchange, purchase, lease, or any other lawful method, the fee or any lesser interest in real or personal property for use by the county or any department, board, commission, or agency of the county.

"§ 153-159. **Power of eminent domain conferred.** — In addition to any power conferred by any other general law or local act, each county possesses the power of eminent domain and may acquire by condemnation the fee or any lesser interest in property, either inside or outside the county, for the following purposes:

- (1) Establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 153-274.
- (2) Establishing, enlarging, or improving parks, playgrounds, and other recreational facilities.
- (3) Constructing, enlarging, or improving hospital facilities.
- (4) Constructing, enlarging, or improving library facilities.
- (5) Constructing, enlarging, or improving courthouses, jails, office buildings, fire stations, and other buildings for use by the county or any board, commission, or agency thereof.

The power to acquire property by condemnation does not depend on any prior effort to acquire the same property by grant or purchase, nor is the power to negotiate for the grant or purchase of property impaired by initiation of condemnation proceedings for acquisition of the same property.

In exercising the power of eminent domain, a county may in its discretion use the procedures of G.S. Chapter 40, Article 2; or the procedures of G.S. Chapter 160A, Article 11; or the procedures of any other general law or local act applicable to the county.

"§ 153-160. **Limitations on the power of eminent domain.** — (a) A county does not possess the power of eminent domain with respect to property owned by the State of North Carolina unless the State consents to the taking. The State's consent shall be given by the Council of State, or by the Director of Administration if the Council of State has delegated this power to him. In a condemnation proceeding against State property, consented to by the State, the only issue shall be the compensation to be paid for the property by the county.

(b) A county possesses the power of eminent domain for the purpose of acquiring any interest in property owned by another county, a city, or a municipal corporation organized for a special purpose only if the property proposed to be taken is not being used and is not needed for any governmental or proprietary purpose.

(c) A county possesses the power of eminent domain for the purpose of acquiring any interest in property already devoted to the public use and owned by a public service corporation, including public utilities as defined in G.S. Chapter 62 and electric and telephone membership corporations, only if the acquisition will not prevent or unreasonably impair the continued devotion to the public use of the properties and their operation by the public service corporation.

**"§ 153-161. Costs in unsuccessful condemnation actions and in inverse condemnation actions.** — If a county or an agency, board, or commission of a county institutes an action to acquire by condemnation any interest in real property and

(a) if the final judgment in the action is that the county or the agency, board, or commission is not authorized to condemn the property; or

(b) if the county or agency, board, or commission abandons the action, the court with jurisdiction over the action shall award each owner of property sought to be condemned a sum that, in the opinion of the court, will reimburse the owner for his reasonable costs, disbursements, and expenses (including reasonable attorney, appraisal, and engineering fees) incurred because of the action.

If an action is brought against a county or an agency, board, or commission of a county seeking compensation for the taking of any interest in property by the county or agency, board, or commission and judgment is for the plaintiff, the court shall award to the plaintiff as a part of the judgment a sum that, in the opinion of the court, will reimburse the plaintiff for his reasonable costs, disbursements, and expenses (including reasonable attorney, appraisal, and engineering fees) incurred because of the action.

**"§ 153-162. Acquisition of remnants.** — A county or an agency, board, or commission of a county may offer to acquire and may acquire the entire tract or parcel of an owner if the acquisition, by purchase or eminent domain, of only a part of the tract or parcel would leave the owner with an uneconomic remnant.

**"§ 153-163. Acquisition of property at a judicial sale, execution sale, or sale pursuant to a power of sale; disposition of such property.** — A county, city, or other unit of local government may purchase real property at a judicial sale, an execution sale, or a sale made pursuant to a power of sale, to secure a debt due the county, city, or other unit. The purchasing government may sell any property so acquired by private sale for not less than the amount of its bid or may sell or exchange the property for any amount according to the procedures prescribed by G.S. Chapter 160A, Article 12.

**"§ 153-164. Joint buildings.** — Two or more counties, cities, other units of local government (including local boards of education), or any combination of such governments may jointly acquire or construct public buildings to house offices, departments, bureaus, agencies, or facilities of each government. The governments may acquire any land necessary for a joint building or may use land already held by one of the governments.

In exercising the powers granted by this section, the governments shall proceed according to the procedures and provisions of G.S. Chapter 160A, Article 20, Part 1.

**"§ 153-165. Leases.** — A county may lease as lessee, with or without option to purchase, any real or personal property for any authorized public purpose. A lease of personal property with an option to purchase is subject to G.S. Chapter 143, Article 8.

"Part 2. Use of County Property

**"§ 153-169. Care and use of county property; sites of county buildings.**— The board of commissioners shall supervise the maintenance, repair, and use of all county property. The board may issue orders and adopt by ordinance or resolution regulations concerning the use of county property, may designate and redesignate the location of any county department, office, or agency, and may designate and redesignate the site for any county building, including the courthouse. Before it may redesignate the site of the courthouse, the board of commissioners shall cause notice of its intention to do so to be published once at least four weeks before the meeting at which the redesignation is made.

**"§ 153-170. Regulation of parking on county property.** — A county may by ordinance regulate parking of motor vehicles on county-owned property. Such an ordinance may be enforced pursuant to G.S. 153-123. In addition, the ordinance may provide that vehicles parked in violation thereof may be removed from the property by the county or an agent of the county to a storage area or garage. If a vehicle is so removed, the owner, as a condition of regaining

possession of the vehicle, shall be required to pay to the county all reasonable costs incidental to the removal and storage of the vehicle and any fine or penalty due for the violation.

"Part 3. Disposition of County Property

"§ 153-176. **Disposition of property.** — A county may dispose of any real or personal property belonging to it according to the procedures prescribed in G.S. Chapter 160A, Article 12. For purposes of this section references in G.S. Chapter 160A, Article 12, to the 'city', the 'council', or a specific city official are deemed to refer, respectively, to the county, the board of commissioners, and the county official who most nearly performs the same duties performed by the specified city official.

"§ 153-177. **Reconveyance of property donated to a local government.** — If real or personal property is conveyed without consideration to a county, city, or other unit of local government to be used for a specific purpose set out in the instrument of conveyance and the governing body of the county, city, or other unit of local government determines that the property will not be used for that purpose, the county, city, or other unit of local government may reconvey the property without consideration to the grantor or his heirs, assigns, or nominees. Before it may make a reconveyance, the county, city, or other unit of local government shall publish once a week for two weeks notice of its intention to do so.

"Article 9

"Special Assessments

"§ 153-185. **Authority to make special assessments.** — A county may make special assessments against benefited property within the county for all or part of the costs of:

- (1) Constructing, reconstructing, extending, or otherwise building or improving water systems;
- (2) Constructing, reconstructing, extending, or otherwise building or improving sewage disposal systems;
- (3) Acquiring, constructing, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works.

A county may not assess property within a city pursuant to paragraphs (1) or (2) of this section unless the governing board of the city has by resolution approved the project.

"§ 153-186. **Bases for making assessments.** — (a) For water or sewer projects, assessments may be made on the basis of:

- (1) The frontage abutting on the project, at an equal rate per foot of frontage; or
- (2) The street frontage of the lots served, or subject to being served, by the project, at an equal rate per foot of frontage; or
- (3) The area of land served, or subject to being served, by the project, at an equal rate per unit of area; or
- (4) The valuation of land served, or subject to being served, by the project, being the value of the land without improvements as shown on the tax records of the county, at an equal rate per dollar of valuation; or
- (5) The number of lots served, or subject to being served, by the project when the project involves extension of an existing system to a residential or commercial subdivision, at an equal rate per lot; or
- (6) A combination of two or more of these bases.

(b) For beach erosion control or flood and hurricane protection works, assessments may be made on the basis of:

- (1) The frontage abutting on the project, at an equal rate per foot of frontage; or
- (2) The frontage abutting on a beach or shoreline protected or benefited by the project, at an equal rate per foot of frontage; or
- (3) The area of land benefited by the project, at an equal rate per unit of area, or

- (4) The valuation of land benefited by the project, being the value of the land without improvements as shown on the tax records of the county, at an equal rate per dollar of valuation; or
- (5) A combination of two or more of these bases.

(c) Whenever the basis selected for assessment is either area or valuation, the board of commissioners shall provide for the laying out of one or more benefit zones according (i), in water or sewer projects, to the distance of benefited property from the project being undertaken and (ii), in beach erosion control or flood and hurricane protection works, to the distance from the shoreline, the distance from the project, the elevation of the land, or other relevant factors. If more than one benefit zone is established, the board shall establish differing rates of assessment to apply uniformly throughout each benefit zone.

(d) For each project, the board of commissioners shall endeavor to establish an assessment method from among the bases set out in this section that will most accurately assess each lot or parcel of land according to the benefit conferred upon it by the project. The board's decision as to the method of assessment is final and not subject to further review or challenge.

**"§ 153-187. Corner lot exemptions.** — The board of commissioners may establish schedules of exemptions from assessments for water or sewer projects for corner lots when water or sewer lines are installed along both sides of the lots. A schedule of exemptions shall be based on categories of land use (residential, commercial, industrial, and agricultural) and shall be uniform for each category. A schedule may not allow exemption of more than seventy-five percent (75%) of the frontage of any side of a corner lot, or 150 feet, whichever is greater.

**"§ 153-188. Lands exempt from assessment.** — Except as provided in this article, no land within a county is exempt from special assessments except land belonging to the United States that is exempt under the provisions of federal statutes and, in the case of water or sewer projects, land within any floodway delineated by a local government pursuant to G.S. Chapter 143, Article 21, Part 6. In addition, in the case of water or sewer projects, land owned, leased, or controlled by a railroad company is exempt from assessments by a county to the same extent that it would be exempt from assessments by a city under G.S. 160A-222.

**"§ 153-189. State participation in improvement projects.** — If a county proposes to undertake a project that would benefit land owned by the State of North Carolina or a board, agency, commission, or institution of the State and to finance all or a part of the project by special assessments, the board of commissioners may request the Council of State to authorize the State to pay its ratable part of the cost of the project, and the Council of State may authorize these payments. The Council of State may authorize the Director of Administration to approve or disapprove requests from counties for payment pursuant to this section, but a county may appeal to the Council of State if the Director disapproves a request. The Council of State may direct that any payment authorized pursuant to this section be made from the Contingency and Emergency Fund of the State of North Carolina or from any other available funds. Except as State payments are authorized pursuant to this section. State-owned property is exempt from assessment under this article.

**"§ 153-190. Preliminary resolution; contents.** — Whenever the board of commissioners decides to finance all or part of a proposed project by special assessments, it shall first adopt a preliminary assessment resolution containing the following:

- (1) A statement of intent to undertake the project;
- (2) A general description of the nature and location of the project;
- (3) A statement as to the proposed basis for making assessments, which shall include a general description of the boundaries of the area benefited if the basis of assessment is either area or valuation;
- (4) A statement as to the percentage of the cost of the work that is to be specially assessed;

- (5) A statement as to which, if any, assessments shall be held in abeyance and for how long;
- (6) A statement as to the proposed terms of payment of the assessment; and
- (7) An order setting a time and place for a public hearing on all matters covered by the preliminary assessment resolution. The hearing shall be not earlier than three weeks and not later than ten weeks from the day on which the preliminary resolution is adopted.

**"§ 153-191. Notice of preliminary resolution.** — At least ten days before the date set for the public hearing, the board of commissioners shall publish a notice that a preliminary assessment resolution has been adopted and that a public hearing on it will be held at a specified time and place. The notice shall describe generally the nature and location of the improvement. In addition, at least ten days before the date set for the hearing, the board shall cause a copy of the preliminary assessment resolution to be mailed by first-class mail to each owner, as shown on the county tax records, of property subject to assessment if the project is undertaken. The person designated to mail these resolutions shall file with the board a certificate stating that they were mailed by first-class mail and on what date. In the absence of fraud, the certificate is conclusive as to compliance with the mailing requirements of this section.

**"§ 153-192. Hearing on preliminary resolution; assessment resolution.** — At the public hearing the board of commissioners shall hear all interested persons who appear with respect to any matter covered by the preliminary assessment resolution. At or after the hearing, the board may adopt a final assessment resolution directing that the project or portions thereof be undertaken. The final assessment resolution shall describe the project in general terms (which may be by reference to projects described in the preliminary resolution) and shall set forth the following:

- (1) The basis on which the special assessments will be made, together with a general description of the boundaries of the areas benefited if the basis of assessment is either area or valuation;
- (2) The percentage of the cost of the work that is to be specially assessed; and
- (3) The terms of payment, including the conditions, if any, under which assessments are to be held in abeyance.

The percentage of cost to be assessed may not be different from the percentage proposed in the preliminary assessment resolution, nor may the project authorized be greater in scope than the project described in that resolution. If the board decides that a different percentage of the cost should be assessed than that proposed in the preliminary assessment resolution, or that the project should be greater in scope than that described in that resolution, it shall adopt and advertise a new preliminary assessment resolution as provided in this article.

**"§ 153-193. Determination of costs.** — When a project is complete, the board of commissioners shall determine the project's total cost. In determining total cost, the board may include construction costs, the cost of necessary legal services, the amount of interest paid during construction, the cost of rights-of-way, and the cost of publishing and mailing notices and resolutions. The board's determination of the total cost of a project is conclusive.

**"§ 153-194. Preliminary assessment roll; publication.** — When the total cost of a project has been determined, the board of commissioners shall cause a preliminary assessment roll to be prepared. The roll shall contain a brief description of each lot, parcel, or tract of land assessed, the basis for the assessment, the amount assessed against each, the terms of payment, and the name of the owner of each lot, parcel, or tract as far as this can be ascertained from the county tax records. A map of the project on which is shown each lot, parcel, or tract assessed, the basis of its assessment, the amount assessed against it, and the name of its owner as far as this can be ascertained from the county tax records is a sufficient assessment roll.

After the preliminary assessment roll has been completed, the board shall cause the roll to be filed in the clerk's office, where it shall be available for public inspection, and shall set the

time and place for a public hearing on the roll. At least ten days before the date set for the hearing, the board shall publish a notice that the preliminary assessment roll has been completed. The notice shall describe the project in general terms, note that the roll in the clerk's office is available for inspection, and state the time and place for the hearing on the roll. In addition, at least ten days before the date set for the hearing, the board shall cause a notice of the hearing to be mailed by first-class mail to each owner of property listed on the roll. The mailed notice shall state the time and place of the hearing, note that the roll in the clerk's office is available for inspection, and state the amount as shown on the roll of the assessment against the property of the owner. The person designated to mail these notices shall file with the board a certificate stating that they were mailed by first-class mail and on what date. In the absence of fraud, the certificate is conclusive as to compliance with the mailing requirements of this section.

**"§ 153-195. Hearing on preliminary assessment roll; revision; confirmation; lien.** — At the public hearing the board of commissioners shall hear all interested persons who appear with respect to the preliminary assessment roll. At or after the hearing, the board shall annul, modify, or confirm the assessments, in whole or in part, either by confirming the preliminary assessments against any lot, parcel, or tract described in the preliminary assessment roll or by canceling, increasing, or reducing the assessments as may be proper in compliance with the basis of assessment. If any property is found to be omitted from the preliminary assessment roll, the board may place it on the roll and make the proper assessment. When the board confirms assessments for a project, the clerk shall enter in the minutes of the board the date, hour, and minute of confirmation. From the time of confirmation, each assessment is a lien on the property assessed of the same nature and to the same extent as the lien for county or city property taxes, under the priorities set out in G.S. 153-200. After the assessment roll is confirmed, the board shall cause a copy of it to be delivered to the county tax collector for collection in the same manner (except as provided in this article) as property taxes.

**"§ 153-196. Publication of notice of confirmation of assessment roll.** — No earlier than 20 days from the date the assessment roll is confirmed, the county tax collector shall publish once a notice that the roll has been confirmed. The notice shall also state that assessments may be paid without interest at any time before the expiration of 30 days from the date that the notice is published and that if they are not paid within this time, all installments thereof shall bear interest as determined by the board of commissioners.

**"§ 153-197. Appeal to the General Court of Justice.** — If the owner of, or any person having an interest in, a lot, parcel, or tract of land against which an assessment is made is dissatisfied with the amount of the assessment, he may, within ten days after the day the assessment roll is confirmed, file a notice of appeal to the appropriate division of the General Court of Justice. He shall then have 20 days after the day the roll is confirmed to serve on the board of commissioners or the clerk a statement of facts upon which the appeal is based. The appeal shall be tried like other actions at law.

**"§ 153-198. Reassessment.** — When in its judgment an irregularity, omission, error, or lack of jurisdiction has occurred in any proceeding related to a special assessment made by it, the board of commissioners may set aside the assessment and make a reassessment. In that case, the board may include in the total project cost all additional interest paid, or to be paid, as a result of the delay in confirming the assessment. A reassessment proceeding shall, as far as practicable, follow the comparable procedures of an original assessment proceeding. A reassessment has the same force as if it originally had been made properly.

**"§ 153-199. Payment of assessments in full or by installments.** — Within 30 days after the day that notice of confirmation of the assessment roll is published, each owner of assessed property shall pay his assessment in full, unless the board of commissioners has provided that assessments may be paid in annual installments. If payment by installments is permitted, any portion of an assessment not paid within the 30 day period shall be paid in annual installments.

The board shall in the assessment resolution determine whether payment may be made by annual installments and set the number of installments, which may not be more than ten. With respect to payment by installment, the board may provide

- (1) That the first installment with interest is due on the date when property taxes are due, and one installment with interest is due on the same date in each successive year until the assessment is paid in full, or
- (2) That the first installment with interest is due 60 days after the date that the assessment roll is confirmed, and one installment with interest is due on that same day in each successive year until the assessment is paid in full.

**"§ 153-200. Enforcement of assessments; interest; foreclosure; limitations.** — (a) Any portion of an assessment that is not paid within 30 days after the day that notice of confirmation of the assessment roll is published shall, until paid, bear interest at a rate to be fixed in the assessment resolution. The maximum rate at which interest may be set is eight percent (8%) per annum.

(b) If an installment of an assessment is not paid on or before the due date, all of the installments remaining unpaid immediately become due, unless the board of commissioners waives acceleration. The board may waive acceleration and permit the property owner to pay all installments in arrears together with interest due thereon and the cost to the county of attempting to obtain payment. If this is done, any remaining installments shall be reinstated so that they fall due as if there had been no default. The board may waive acceleration and reinstate further installments at any time before foreclosure proceedings have been instituted.

(c) A county may foreclose assessment liens under any procedure provided by law for the foreclosure of property tax liens, except that (i) lien sales and lien sale certificates are not required and (ii) foreclosure may be begun at any time after 30 days after the due date. The county is not entitled to a deficiency judgment in an action to foreclose an assessment lien. The lien of special assessments is inferior to all prior and subsequent liens for State, local, and federal taxes, and superior to all other liens.

(d) No county may maintain an action or proceeding to foreclose any special assessment lien unless the action or proceeding is begun within 10 years from the date that the assessment or the earliest installment thereof included in the action or proceeding became due. Acceleration of installments under subsection (b) of this section does not have the effect of shortening the time within which foreclosure may be begun; in that event the statute of limitations continues to run as to each installment as if acceleration had not occurred.

**"§ 153-201. Authority to hold assessments in abeyance.** — The assessment resolution may provide that assessments made pursuant to this article shall be held in abeyance without interest for any benefited property assessed. Water or sewer assessments may be held in abeyance until improvements on the assessed property are connected to the water or sewer system for which the assessment was made, or until a date certain not more than 10 years from the date of confirmation of the assessment roll, whichever event occurs first. Beach erosion control or flood and hurricane protection assessments may be held in abeyance for not more than 10 years from the date of confirmation of the assessment roll. When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

If assessments are to be held in abeyance, the assessment resolution shall classify the property assessed according to general land use, location with respect to the water or sewer system (for water or sewer assessments), or other relevant factors. The resolution shall also provide that the period of abeyance shall be the same for all assessed property in the same class.

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.

**"§ 153-202. Assessments on property held by tenancy for life or years contribution.** — (a) Assessments upon real property in the possession or enjoyment of a tenant for life or a tenant

for a term of years shall be paid pro rata by the tenant and the remaindermen after the life estate or by the tenant and the owner in fee after the expiration of the tenancy for years according to their respective interests in the land as calculated pursuant to G.S. 37-13.

(b) If a person having an interest in land held by tenancy for life or years pays more than his pro rata share of an assessment against the property, he may maintain an action in the nature of a suit for contribution against any delinquent party to recover from that party his pro rata share of the assessment, with interest thereon from the date of the payment; and in addition, he is subrogated to the right of the county to a lien on the property for the delinquent party's share of the assessment.

**"§ 153-203. Lien in favor of a cotenant or joint owner paying special assessments.** — Any one of several tenants in common or joint tenants (other than co-partners) may pay the whole or any part of a special assessment made against property held in common or jointly. Any amount so paid that exceeds his share of the assessment and that was not paid through agreement with or on behalf of the other joint owners is a lien in his favor upon the shares of the other joint owners. This lien may be enforced in a proceeding for actual partition, a proceeding for partition and sale, or by any other appropriate judicial proceeding. This lien is not effective against an innocent purchaser for value until notice of the lien is filed in the office of the clerk of superior court in the county in which the land lies and indexed and docketed in the same manner as other liens required by law to be filed in that clerk's office.

**"§ 153-204. Apportionment of assessments.** — If a special assessment has been made against property that has been or is about to be subdivided, the board of commissioners may, with the consent of the owner of the property, (i) apportion the assessment among the lots or tracts within the subdivision, or (ii) release certain lots or tracts from the assessment if, in the board's opinion, the released lots or tracts are not benefited by the project, or (iii) both. Upon an apportionment each of the lots or tracts in the subdivision is released from the lien of the original assessment, and the portion of the original assessment assessed against each lot or tract has, as to that lot or tract, the same force as the original assessment. At the time the board makes an apportionment under this section, the clerk shall enter on the minutes of the board the date, hour, and minute of apportionment and a statement to the effect that the apportionment is made with the consent of the owners of the property affected, which entry is conclusive in the absence of fraud. The apportionment is effective at the time shown in the minute book. Apportionments may include past due installments with interest, as well as installments not then due; and any installment not then due shall fall due at the same date as it would have under the original assessment.

"Article 10

"Law Enforcement and Confinement Facilities

"Part 1. Law Enforcement

**"§ 153-211. Training and development programs for law enforcement.** — A county may plan and execute training and development programs for law enforcement agencies, and for that purpose may:

- (1) contract with other counties, cities, and the State and federal governments and their agencies;
- (2) accept, receive, and disburse funds, grants, and services;
- (3) pursuant to the procedures and provisions of G.S. Chapter 160A, Article 20, Part 1, create joint agencies to act for and on behalf of the participating counties and cities;
- (4) apply for, receive, administer, and expend federal grant funds;
- (5) appropriate funds not otherwise limited as to use by law.

**"§ 153-212. Cooperation on law enforcement matters.** — A county may cooperate with other local governments in law enforcement matters, as permitted by G.S. 160A-283 (joint auxiliary police), by 160A-288 (emergency aid), and by G.S. Chapter 160A, Article 20, Part 1.

## "Part 2. Local Confinement Facilities

"§ 153-216. **Legislative policy.** — The policy of the General Assembly with respect to local confinement facilities is:

- (1) Local confinement facilities should provide secure custody of persons confined therein in order to protect the community and should be operated so as to protect the health and welfare of prisoners and provide for their humane treatment.
- (2) Minimum statewide standards should be provided to guide and assist local governments in planning, constructing, and maintaining confinement facilities and in developing programs that provide for humane treatment of prisoners and contribute to the rehabilitation of offenders.
- (3) The State should provide services to local governments to help improve the quality of administration in local confinement facilities. These services should include inspection, consultation, technical assistance, and other appropriate services.
- (4) Adequate training of the personnel of local confinement facilities is essential to improvement of the quality of administration of those facilities. The State should provide this training and the training should be required as a condition of employment in a local confinement facility.

"§ 153-217. **Definitions.** — Unless otherwise clearly required by the context, the words and phrases defined in this section have the meanings indicated when used in this part:

- (1) 'Board' means the State Board of Social Services.
- (2) 'Commissioner' means the State Commissioner of Social Services.
- (3) 'Department' means the State Department of Social Services.
- (4) 'Governing body' means the governing body of a county or city or the policy-making body for a district or regional confinement facility.
- (5) 'Local confinement facility' includes a county or city jail, a local lock-up, a regional or district jail, a juvenile detention home, a detention facility for adults operated by a local government, and any other facility operated by a local government for confinement of persons awaiting trial or serving sentences.
- (6) 'Prisoner' includes any person, adult or juvenile, confined or detained in a confinement facility.
- (7) 'Unit', 'unit of local government', or 'local government' mean a county or city.

"§ 153-218. **County confinement facilities.** — A county may establish, acquire, erect, repair, maintain, and operate local confinement facilities and may for these purposes appropriate funds not otherwise limited as to use by law.

"§ 153-219. **District confinement facilities.** — (a) Two or more units of local government may enter into and carry out an agreement to establish, finance, and operate a district confinement facility. The units may construct such a facility or may designate an existing facility as a district confinement facility. In addition, two or more units of local government may enter into and carry out agreements under which one unit may use the local confinement facility owned and operated by another. In exercising the powers granted by this section, the units shall proceed according to the procedures and provisions of G.S. Chapter 160A, Article 20, Part 1.

(b) If a district confinement facility is established, the units involved shall provide for a jail administrator for the facility. The administrator need not be the sheriff or any other official of a participating unit. The administrator and the other custodial personnel of a district confinement facility have the authority of law enforcement officers for the purposes of receiving, maintaining custody of, and transporting prisoners.

(c) If a district confinement facility is established, or if one unit contracts to use the local confinement facility of another, the law enforcement officers of the contracting units and the custodial personnel of the facility may transport prisoners to and from the facility.

(d) The Department shall provide technical and other assistance to units wishing to exercise any of the powers granted by this section.

**"§ 153-220. Jail and detention services.**— The Board has policy responsibility for providing and coordinating State services to local government with respect to local confinement facilities. The Department shall:

- (1) Consult with and provide technical assistance to units of local government with respect to local confinement facilities.
- (2) Develop minimum standards for the construction and operation of local confinement facilities.
- (3) Visit and inspect local confinement facilities; advise the sheriff, jailer, governing board, and other appropriate officials as to deficiencies and recommend improvements; and submit written reports on the inspections to appropriate local officials.
- (4) Review and approve plans for the construction and major modification of local confinement facilities.
- (5) Provide for training of personnel of local confinement facilities.
- (6) Perform any other duties that may be necessary to carry out the State's responsibilities concerning local confinement facilities.

**"§ 153-221. Minimum standards**— (a) The Commissioner shall develop and publish minimum standards for the operation of local confinement facilities and may from time to time develop and publish amendments to the standards. The standards shall be developed with a view to providing secure custody of prisoners and to protecting their health and welfare and providing for their humane treatment. The standards shall provide for:

- (1) Secure and safe physical facilities;
- (2) Jail design;
- (3) Adequacy of space per prisoner;
- (4) Heat, light, and ventilation;
- (5) Supervision of prisoners;
- (6) Personal hygiene and comfort of prisoners;
- (7) Medical care for prisoners;
- (8) Sanitation;
- (9) Food allowances, food preparation, and food handling;
- (10) Any other provisions that may be necessary for the safekeeping, privacy, care, protection, and welfare of prisoners.

(b) In developing the standards and any amendments thereto, the Commissioner shall consult with organizations representing local government and local law enforcement, including the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, the North Carolina Sheriffs' Association, and the North Carolina Police Executives' Association. The Commissioner shall also consult with interested State departments and agencies, including the State Department of Social Rehabilitation and Control, the State Board of Health, the State Department of Mental Health, and the Department of Insurance.

(c) Before the standards or any amendments thereto may become effective, they must be approved by the Board and the Governor. Upon becoming effective, they have the force and effect of law.

**"§ 153-222. Inspections of local confinement facilities.** — Department personnel shall visit and inspect each local confinement facility at least semiannually. The purpose of the inspections is to investigate the conditions of confinement and treatment of prisoners and to determine whether the facility meets the minimum standards published pursuant to G.S. 153-

221. The inspector shall make a written report of each inspection and submit it within 30 days after the day the inspection is completed to the governing body and other local officials responsible for the facility. The report shall specify each way in which the facility does not meet the minimum standards. The governing body shall consider the report at its first regular meeting after receipt of the report and shall promptly initiate any action necessary to bring the facility into conformity with the standards.

"§ 153-223. **Enforcement of minimum standards.** — If an inspection conducted pursuant to G.S. 153-222 discloses that a local confinement facility does not meet the minimum standards published pursuant to G.S. 153-221 and, in addition, if the Commissioner determines that conditions in the facility jeopardize the safe custody, safety, health, or welfare of persons confined in the facility, the Commissioner may order corrective action or close the facility, as provided in this section:

- (1) The Commissioner shall give notice of his determination to the governing body and each other local official responsible for the facility. The Commissioner shall also send a copy of this notice, along with a copy of the inspector's report, to the senior regular resident superior court judge for the judicial district in which the facility is located. Upon receipt of the Commissioner's notice, the governing body shall call a public hearing to consider the report. The hearing shall be held within 20 days after the day the Commissioner's notice is received. The inspector shall appear at this hearing to advise and consult with the governing body concerning any corrective action necessary to bring the facility into conformity with the standards.
- (2) The governing body shall, within 30 days after the day the Commissioner's notice is received, initiate appropriate corrective action or close the facility. The corrective action must be completed within a reasonable time.
- (3) If the governing body does not within the 30-day period either initiate corrective action or close the facility, or does not complete the action within a reasonable time, the Commissioner may order that the facility be closed. The Commissioner shall by registered mail give notice of his order of closure to the governing body and each other local official responsible for the facility and to the senior regular resident superior court judge. The order shall provide for its effective date.
- (4) The governing body may appeal an order of the Commissioner to the senior regular resident superior court judge. The governing body shall initiate the appeal by giving by registered mail to the judge and to the Commissioner notice of its intention to appeal. The notice must be given within 15 days after the day the Commissioner's order is received. If notice is not given within the 15-day period, the right to appeal is terminated.
- (5) The senior regular resident superior court judge shall hear the appeal. He shall cause notice of the date, time, and place of the hearing to be given to each interested party, including the Commissioner, the governing body, and each other local official involved. The judge shall conduct the hearing without a jury. The Commissioner, the governing body, and each other local official may give any evidence the judge finds appropriate. The issue before the court shall be whether the facility continues to jeopardize the safe custody, safety, health, or welfare of persons confined therein. The court may affirm, modify, or reverse the Commissioner's order.

"§ 153-224. **Supervision of local confinement facilities.** — (a) No person may be confined in a local confinement facility unless custodial personnel are present and available to provide continuous supervision in order that custody will be secure and that, in event of emergency,

such as fire, illness, assaults by other prisoners, or otherwise, the prisoners can be protected. These personnel shall supervise prisoners closely enough to maintain safe custody and control and to be at all times informed of the prisoners' general health and emergency medical needs.

(b) In a medical emergency, the custodial personnel shall secure emergency medical care from a licensed physician according to the unit's plan for medical care. If a physician designated in the plan is not available, the personnel shall secure medical services from any licensed physician who is available. The unit operating the facility shall pay the cost of emergency medical services.

(c) If a person violates any provision of this section, he is guilty of a misdemeanor.

**"§ 153-225. Medical care of prisoners.** — (a) Each unit that operates a local confinement facility shall develop a plan for providing medical care for prisoners in the facility. The plan

- (1) shall be designed to protect the health and welfare of the prisoners and to avoid the spread of contagious disease;
- (2) shall provide for medical supervision of prisoners and emergency medical care for prisoners to the extent necessary for their health and welfare;
- (3) shall provide for compliance with the requirements of G.S. 130-97 and G.S. 130-121.

The unit shall develop the plan in consultation with appropriate local officials and organizations, including the sheriff, the county physician, the local or district health director, and the local medical society. The plan must be approved by the local or district health director, upon a determination that the plan is adequate to protect the health and welfare of the prisoners, and must be adopted by the governing body.

(b) If a prisoner in a local confinement facility dies, the medical examiner and the coroner shall be notified immediately. Within five days after the day of the death, the administrator of the facility shall make a written report to the local or district health director and to the Commissioner. The report shall be made on forms provided by the State Board of Health, and the Board of Health shall develop and distribute these forms.

(c) If a person violates any provision of this section (including the requirements regarding G.S. 130-97 and 130-121), he is guilty of a misdemeanor.

**"§ 153-226. Sanitation and food.** — (a) The State Board of Health shall adopt rules and regulations governing the sanitation of local confinement facilities, including the kitchens and other places where food is prepared for prisoners. The rules and regulations shall cover such matters as cleanliness of floors, walls, ceilings, storage spaces, utensils, and other facilities; adequacy of lighting, ventilation, water, lavatory facilities, bedding, food protection facilities, treatment of eating and drinking utensils, and waste disposal; methods of food preparation, handling, storage, and serving; adequacy of diet; and any other item necessary to the health of the prisoners or the public.

(b) The State Board of Health shall prepare a score sheet to be used by sanitarians of local or district health departments in inspecting local confinement facilities. The sanitarians shall inspect local confinement facilities as often as may be required by the State Board of Health. If an inspector of the Department finds conditions that reflect hazards or deficiencies in the sanitation or food service of a local confinement facility, he shall immediately notify the local or district health department. The health department shall promptly cause a sanitarian to inspect the facility. After making his inspection, the sanitarian shall forward a copy of his report to the Department and to the unit operating the facility, on forms prepared by the State Board of Health. The report shall indicate whether the facility and its kitchen or other place for preparing food is approved or disapproved for public health purposes. If the facility is disapproved, the situation shall be rectified according to the procedures of G.S. 153-223.

**"§ 153-227. Training of personnel.** — (a) The Commissioner shall provide for a training program for supervisory and administrative personnel of local confinement facilities. These personnel include the sheriff and other elected or appointed officials. The Commissioner shall

develop the training program in consultation with the State Department of Social Rehabilitation and Control, the North Carolina Sheriffs' Association, the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, and the North Carolina Police Executives' Association. To the extent feasible, the training should be provided through the existing educational resources of the State.

(b) Except on a temporary or probationary basis, no person (including elected officials) may serve as jailer or administrator of a local confinement facility unless he has successfully completed an approved program of training established pursuant to subsection (a) of this section. No person may serve on a temporary or probationary basis for longer than one year.

**"§ 153-228. Separation of sexes.**— Male and female prisoners shall be confined in separate facilities or in separate quarters in local confinement facilities.

"Article 11

"Fire Protection

**"§ 153-233. Fire fighting and prevention services.** — A county may establish, organize, equip, support, and maintain a fire department; may prescribe the duties of the fire department; may provide assistance to incorporated volunteer fire departments; may contract for fire fighting or prevention services with one or more counties, cities, or other units of local government or with an agency of the State government; and may for these purposes appropriate funds not otherwise limited as to use by law.

**"§ 153-234. Fire marshal.** — A county may appoint a fire marshal and employ persons as his assistants. A county may also impose any duty that might be imposed on a fire marshal on any other officer or employee of the county. The board of commissioners shall set the duties of the fire marshal, which may include but are not limited to:

- (1) Advising the board on improvements in the fire fighting or fire prevention activities under the county's supervision or control.
- (2) Coordinating fire fighting and training activities under the county's supervision or control.
- (3) Coordinating fire prevention activities under the county's supervision or control.
- (4) Assisting incorporated volunteer fire departments in developing and improving their fire fighting or fire prevention capabilities.
- (5) Making fire prevention inspections, including the periodic inspections and reports of school buildings required by G.S. Chapter 115 and the inspections of day-care facilities required by G.S. Chapter 110. A fire marshal shall not make electrical inspections unless he is qualified to do so under G.S. 153-351.

**"§ 153-235. Fire prevention codes.** — A county may by ordinance adopt a fire prevention code, to be effective in all areas of the county not governed by a city fire prevention code. Any published technical code or any standard or regulation promulgated by a public agency may be adopted in the ordinance by reference, and a technical code or standard or regulation so adopted has the force of law in each area of the county in which the ordinance is effective. An official copy of a technical code or standard or regulation adopted by reference shall be available for public inspection in the clerk's office. Before a fire prevention code may be adopted, it must be submitted to and approved by the State Building Code Council.

A county that adopts a fire prevention code shall appoint one or more fire prevention inspectors or designate one or more other county officers or employees to perform the duties of fire prevention inspector. The board of commissioners shall, subject to the approval of the State Building Code Council, set the duties of any person appointed or designated as a fire prevention inspector. A fire prevention inspector shall not make electrical inspections unless he is qualified to do so under G.S. 153-351.

"Article 12

## "Roads and Bridges

"§ 153-239. **Public road defined.** — In this article 'public road' or 'road' mean any road, street, highway, thoroughfare, or other way of passage that has been irrevocably dedicated to the public or in which the public has acquired rights by prescription, without regard to whether it is open for travel.

"§ 153-240. **Naming roads and assigning street numbers in unincorporated areas.** — A county may by ordinance name or rename any public road within the county and not within a city, and may assign or reassign street numbers for use on such a road. In naming or renaming a public road, a county may not

- (1) change the name, if any, given to the road by the State Highway Commission, unless the Commission agrees;
- (2) change the number assigned to the road by the State Highway Commission, but may give the road a name in addition to its number; or
- (3) give the road a name that is deceptively similar to the name of any other public road in the vicinity.

A county shall not name or rename a road or assign or reassign street numbers on a road until it has held a public hearing on the matter. At least ten days before the day of the hearing, the board of commissioners shall cause notice of the time, place, and subject matter of the hearing to be prominently posted in at least three places along the road involved. After naming or renaming a public road, or assigning or reassigning street numbers on a public road, a county shall cause notice of its action to be given to the local postmaster with jurisdiction over the road, to the State Highway Commission, and to any city within five miles of the road.

This section does not repeal or modify Chapter 945 of the Session Laws of 1953, which pertains to naming streets in Kannapolis.

"§ 153-241. **Closing public roads or easements.** — A county may permanently close any public road or any easement within the county and not within a city, except public roads or easements for public roads under the control and supervision of the State Highway Commission. The board of commissioners shall first adopt a resolution declaring its intent to close the public road or easement and calling a public hearing on the question. The board shall cause the resolution to be published once a week for four successive weeks before the hearing, a copy of the resolution to be sent by registered or certified mail to each owner as shown on the county tax records of property adjoining the public road or easement who did not join in the request to have the road or easement closed, and a notice of the closing and public hearing to be prominently posted in at least two places along the road or easement. At the hearing the board shall hear all interested persons who appear with respect to whether the closing would be detrimental to the public interest or to any individual property rights. If, after the hearing, the board of commissioners is satisfied that closing the public road or easement is not contrary to the public interest and (in the case of a road) that no individual owning property in the vicinity of the road or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the board may adopt an order closing the road or easement. A certified copy of the order (or judgment of the court) shall be filed in the office of the register of deeds of the county.

Any person aggrieved by the closing of a public road or an easement may appeal the board of commissioners' order to the appropriate division of the General Court of Justice within 30 days after the day the order is adopted. The court shall hear the matter de novo and has jurisdiction to try the issues arising and to order the road or easement closed upon proper findings of fact by the trier of fact.

No cause of action founded upon the invalidity of a proceeding taken in closing a public road or an easement may be asserted except in an action or proceeding begun within thirty days after the day the order is adopted.

Upon the closing of a public road or an easement pursuant to this section, all right, title, and interest in the right-of-way is vested in those persons owning lots or parcels of land adjacent to the road or easement, and the title of each adjoining landowner, for the width of his abutting land, extends to the center line of the public road or easement. However, the right, title or interest vested in an adjoining landowner by this paragraph remains subject to any public utility use or facility located on, over, or under the road or easement immediately before its closing, until the landowner or any successor thereto pays to the utility involved the reasonable cost of removing and relocating the facility.

**"§ 153-242. Regulation or prohibition of fishing from bridges.** — A county may by ordinance regulate or prohibit fishing from any bridge within the county and not within a city. In addition, the governing board of a city may by resolution permit a county to regulate or prohibit fishing from any bridge within the city. The city may by resolution withdraw its permission to the county ordinance. If it does so, the city shall give written notice to the county of its withdrawal of permission; 30 days after the day the county receives this notice the county ordinance ceases to be applicable within the city. An ordinance adopted pursuant to this section shall provide for signs to be posted on each bridge affected, summarizing the regulation or prohibition pertaining to that bridge.

No person may fish from the drawspan of a regularly attended bridge, and no county may permit any person to do so.

The authority granted by this section is subject to the authority of the State Highway Commission to prohibit fishing from any bridge on the State Highway System.

**"§ 153-243. Authorizing bridges over navigable waters.** — A county may grant to persons who between them own or occupy real property on both sides of a body of navigable water lying wholly within the county the right to construct and maintain across the body of water a bridge connecting the property. The board of commissioners shall first adopt a resolution declaring its intent to grant the right and calling a public hearing on the question. The board shall cause the resolution to be published once a week for four successive weeks before the hearing. At the hearing the board shall hear all interested persons who appear with respect to whether the grant would be in the public interest. If, after the hearing, the board finds that the grant is not contrary to the public interest, it may adopt an order granting the right to construct the bridge. The board may place reasonable terms and conditions, including time limitations, on the grant.

A person aggrieved by a grant may appeal the board of commissioners' order to the appropriate division of the General Court of Justice within thirty days after the day it is adopted. The court shall hear the matter de novo and has jurisdiction to try the issues arising and to grant the right to construct the bridge.

Before construction may be commenced on any bridge authorized pursuant to this section, the bridge's location and plans must be submitted to and approved by the Chief of Engineers of the United States Army and the Secretary of the Army.

"Article 13

"Health and Social Services

"Part 1. Health Services

**"§ 153-247. Provision for public health and mental health.** — A county may provide for and regulate the public health pursuant to G.S. Chapter 130 and any other law authorizing local public health activities and may provide mental health programs pursuant to G.S. Chapter 122.

**"§ 153-248. Health-related appropriations.** — (a) A county may appropriate revenues not otherwise limited as to use by law:

- (1) To a licensed facility for the mentally retarded, whether publicly or privately owned, to assist in maintaining and developing facilities and treatment, if the board of commissioners determines that the care offered by the facility is

available to residents of the county. The facility need not be located within the county.

- (2) To a sheltered workshop or other private, nonprofit, charitable organization offering work and training activities to the physically or mentally handicapped, and may otherwise assist such an organization.
- (3) To an orthopedic hospital, whether publicly or privately owned, to assist in maintaining and developing facilities and treatment, if the board of commissioners determines that the care offered by the hospital is available to residents of the county. The hospital need not be located within the county.

(b) The ordinance making the appropriation shall state specifically what the appropriation is to be used for, and the board of commissioners shall require that the recipient account for the appropriation at the close of the fiscal year.

"§ 153-249. **Hospital services.** — A county may provide and support hospital services pursuant to G.S. Chapter 131.

"§ 153-250. **Ambulance services.** — (a) A county may by ordinance franchise ambulance services provided in the county to the public at large, whether the service is based inside or outside the county. The ordinance may:

- (1) Grant franchises to ambulance operators on terms set by the board of commissioners;
- (2) Make it unlawful to provide ambulance services or to operate an ambulance in the county without such a franchise;
- (3) Limit the number of ambulances that may be operated within the county;
- (4) Limit the number of ambulances that may be operated by each franchised operator;
- (5) Determine the areas of the county that may be served by each franchised operator;
- (6) Establish and from time to time revise a schedule of rates, fees, and charges that may be charged by franchised operators;
- (7) Set minimum limits of liability insurance for each franchised operator;
- (8) Establish other necessary regulations consistent with and supplementary to any statute or any State Board of Health regulation relating to ambulance services.

Before it may adopt an ordinance pursuant to this subsection, the board of commissioners must first hold a public hearing on the need for ambulance services. The board shall cause notice of the hearing to be published once a week for two successive weeks before the hearing. After the hearing the board may adopt an ordinance if it finds that to do so is necessary to assure the provision of adequate and continuing ambulance service and to preserve, protect, and promote the public health, safety, and welfare.

If a person, firm, or corporation is providing ambulance services in a county or any portion thereof on the effective date of an ordinance adopted pursuant to this subsection, the person, firm, or corporation is entitled to a franchise to continue to serve that part of the county in which the service is being provided. The board of commissioners shall determine whether the person, firm, or corporation so entitled to a franchise is in compliance with G.S. Chapter 130, Article 26; and if that is the case, the board shall grant the franchise.

(b) In lieu of or in addition to adopting an ordinance pursuant to subsection (a) of this section, a county may operate or contract for ambulance services in all or a portion of the county. A county may appropriate for ambulance services any revenues not otherwise limited as to use by law, and may establish and from time to time revise schedules of rates, fees, charges, and penalties for the ambulance services. A county may operate its ambulance services as a line department or may create an ambulance commission and vest in it authority to operate the ambulance services.

(c) A city may adopt an ordinance pursuant to and under the procedures of subsection (a) of this section and may operate or contract for ambulance services pursuant to subsection (b) of this section if (i) the county in which the city is located has adopted a resolution authorizing the city to do so or (ii) the county has not, within 180 days after being requested by the city to do so, provided for ambulance services within the city pursuant to this section. Any action taken by a city pursuant to this subsection shall apply only within the corporate limits of the city.

If a city is exercising a power granted by this subsection, the county in which the city is located may thereafter take action to provide for ambulance service within the city, either under subsection (a) or subsection (b) of this section, only after having given to the city 180 days notice of the county's intention to take action. At the end of the 180 days, the city's authority under this subsection is pre-empted by the county.

(d) A county or a city may contract with a franchised ambulance operator or with another county or city for ambulance service to be provided upon the call of a department or agency of the county or city. A county may contract with a franchised ambulance operator for transportation of indigents or persons certified by the county department of social services to be public assistance recipients.

(e) Each county or city operating ambulance services is subject to the provisions of G.S. Chapter 130, Article 26 ("Regulation of Ambulance Services").

"Part 2. Social Service Provisions

**"§ 153-255. Authority to provide social service programs.** — Each county shall provide social service programs pursuant to G.S. Chapter 108 and G.S. Chapter 111 and may otherwise undertake, sponsor, organize, engage in, and support other social service programs intended to further the health, welfare, education, safety, comfort, and convenience of its citizens.

**"§ 153-256. County home.** — A county may establish, erect, acquire, lease as lessor or lessee, equip, support, operate, and maintain a county home for aged and infirm persons and may appropriate funds for these purposes.

The superintendent of each county home shall make an annual report on its operation to the board of commissioners of the county operating the home and to the State Department of Social Services. The report shall contain any information that the board of commissioners and the State Department of Social Services, respectively, require, and the Department may provide forms for this report.

**"§ 153-257. Legal residence for social service purposes.** — (a) Legal residence in a county determines which county is responsible (i) for financial support of a needy person who meets the eligibility requirements for a public assistance or medical care program offered by the county or (ii) for other social services required by the person.

Legal residence in a county is determined as follows:

- (1) Except as modified below, a person has legal residence in the county in which he resides.
- (2) If a person is in a hospital, mental institution, nursing home, boarding home, confinement facility, or similar institution or facility, he does not, solely because of that fact, have legal residence in the county in which the institution or facility is located.
- (3) A minor has the legal residence of the parent or other relative with whom he resides. If the minor does not reside with a parent or relative and is not in a foster home, hospital, mental institution, nursing home, boarding home, educational institution, confinement facility, or similar institution or facility, he has the legal residence of the person with whom he resides. Any other minor has the legal residence of his mother, or if her residence is not known then the legal residence of his father; if his mother's or father's residence is not known, the minor is a legal resident of the county in which he is found.

(b) A legal residence continues until a new one is acquired, either within or outside this State. When a new legal residence is acquired, all former legal residences terminate.

(c) This section is intended to replace the law defining 'legal settlement.' Therefore any general law or local act that refers to 'legal settlement' is deemed to refer to this section and the rules contained herein.

"Article 14

"Libraries

"§ 153-261. **Declaration of State policy.** — The General Assembly recognizes that the availability of adequate, modern library services and facilities is in the general interest of the people of North Carolina and a proper concern of the State and of local governments. Therefore it is the policy of the State of North Carolina to promote the establishment and development of public library services throughout the State.

"§ 153-262. **Library materials defined.** — For purposes of this article, the phrase 'library materials' includes, without limitation, books, plates, pictures, engravings, maps, magazines, pamphlets, newspapers, manuscripts, films, transparencies, microforms, recordings, or other specimens, works of literature, or objects of art, historical significance, or curiosity.

"§ 153-263. **Public library systems authorized.** — A county or city may:

- (1) Establish, operate, and support public library systems;
- (2) Set apart lands and buildings for a public library system;
- (3) Acquire real property for a public library system by gift, grant, purchase, lease, exercise of the power of eminent domain, or any other lawful method. If a library board of trustees is appointed, a county or city shall, before acquiring real property by purchase, lease, or exercise of the power of eminent domain, seek the recommendations of the board of trustees regarding the proposed acquisition;
- (4) Provide, acquire, construct, equip, operate, and maintain buildings and other structures for a public library system;
- (5) Acquire library materials by purchase, exchange, bequest, gift, or any other lawful method;
- (6) Appropriate funds to carry out the provisions of this article;
- (7) Accept any gift, grant, lease, loan, exchange, bequest, or devise of real or personal property for a public library system. Devises, bequests, grants, and gifts may be accepted and held subject to any term or condition that may be imposed by the grantor or trustor, except that no county or city may accept or administer any term or condition that requires it to discriminate among its citizens on the basis of race, sex, or religion.

"§ 153-264. **Free library services.** — If a county or city, pursuant to this article, operates or makes contributions to the support of a library, any resident of the county or city, as the case may be, is entitled to the free use of the library.

"§ 153-265. **Library board of trustees.** — The governing body of a county or city may appoint a library board of trustees. The governing body shall determine the number of members of the board of trustees (which may not be more than twelve), the length of their terms, the manner of filling vacancies, and the amount, if any, of their compensation and allowances. The governing body may remove a trustee at any time for incapacity, unfitness, misconduct, or neglect of duty.

"§ 153-266. **Powers and duties of trustees.** — If a board of trustees is appointed, it shall elect a chairman and may elect other officers. The governing body may delegate to the board of trustees any of the following powers:

- (1) To formulate and adopt programs, policies, and regulations for the government of the library;

- (2) To make recommendations to the governing body concerning the construction and improvement of buildings and other structures for the library system;
- (3) To supervise and care for the facilities of the library system;
- (4) To appoint a chief librarian or director of library services and, with his advice, to appoint other employees of the library system. If some other body or official is to appoint the chief librarian or director of library services, to advise that body or official concerning that appointment;
- (5) To establish a schedule of fines and charges for late return of, failure to return, damage to, and loss of library materials, and to take other measures to protect and regulate the use of such materials;
- (6) To participate in preparing the annual budget of the library system;
- (7) To extend the privileges and use of the library system to nonresidents of the county or city establishing or supporting the system, on any terms or conditions the board may prescribe.
- (8) To otherwise advise the board of commissioners on library matters.

The board of trustees shall make an annual report on the operations of the library to the governing body of the county or city and shall make an annual report to the North Carolina State Library as required by G.S. 125-5. If no board of trustees is established, the governing body shall make the annual report to the State Library.

**"§ 153-267. Qualifications of chief librarian; library employees.** — (a) To be eligible for appointment and service as the chief administrative officer of a library system (whether designated chief librarian, director of library services, or some other title), a person must have a professional librarian certificate issued by the North Carolina Library Certification Board pursuant to the provisions of G.S. Chapter 125.

(b) The employees of a county or city library system are, for all purposes, employees of the county or city, as the case may be.

**"§ 153-268. Financing library systems.** — A county or city may appropriate for library purposes any funds not otherwise limited as to use by law.

**"§ 153-269. Title to library property.** — The title to all property acquired by a county or city for library purposes shall be in the name of the county or city. If property is given, granted, devised, bequeathed, or otherwise conveyed to the board of trustees of a county or city library system, it shall be deemed to have been conveyed to the county or city and shall be held in the name of the county or city.

**"§ 153-270. Joint libraries; contracts for library services.** — Two or more counties or cities or counties and cities may establish a joint library system or contract for library services, according to the procedures and provisions of G.S. Chapter 160A, Article 20, Part 1.

**"§ 153-271. Library systems operated under local acts brought under this article.** — If a county or city operates a library system pursuant to a local act, the governing body of the county or city may by ordinance provide that the library system is to be operated pursuant to this article.

"Article 15

"Public Enterprises

"Part 1. General Provisions

**"§ 153-274. Public enterprise defined.** — As used in this article, 'public enterprise' includes:

- (1) Water supply and distribution systems,
- (2) Sewage collection and disposal systems,
- (3) Solid waste collection and disposal systems and facilities,
- (4) Airports,
- (5) Off-street parking facilities.

**"§ 153-275. Authority to operate public enterprises.** — A county may acquire, lease as lessor or lessee, construct/establish, enlarge, improve, extend, maintain, own, operate, and contract for the operation of public enterprises in order to furnish services to the county and its citizens. A county may acquire, construct, establish, enlarge, improve, maintain, own, and operate outside its borders any public enterprise.

A county may by ordinance or resolution adopt adequate and reasonable rules and regulations to protect and regulate a public enterprise belonging to or operated by it.

**"§ 153-276. Financing public enterprises.** — Subject to the restrictions, limitations, procedures, and regulations otherwise provided by law, a county may finance the cost of a public enterprise by levying taxes, borrowing money, and appropriating any other revenues, and by accepting and administering gifts and grants from any source.

**"§ 153-277. Authority to fix and enforce rates.** — (a) A county may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished by a public enterprise. Schedules of rents, rates, fees, charges, and penalties may vary for the same class of service in different areas of the county and may vary according to classes of service, and different schedules may be adopted for services provided outside of the county.

(b) A county may collect delinquent accounts by any remedy provided by law for collecting and enforcing private debts. A county may also discontinue service to a customer whose account remains delinquent for more than 10 days. If a delinquent customer is not the owner of the premises to which the services are delivered, the payment of the delinquent account may not be required before providing services at the request of a new and different tenant or occupant of the premises. If water or sewer services are discontinued for delinquency, it is unlawful for a person other than a duly authorized agent or employee of the county to reconnect the premises to the water or sewer system.

(c) Rents, rates, fees, charges, and penalties for enterprisory services are in no case a lien upon the property or premises served and, except as provided in subsection (d) of this section, are legal obligations of the person contracting for them.

(d) Rents, rates, fees, charges, and penalties for enterprisory services are legal obligations of the owner of the property or premises served when:

- (1) The property or premises is leased or rented to more than one tenant and services rendered to more than one tenant are measured by the same meter; or
- (2) Charges made for use of a sewerage system are billed separately from charges made for the use of a water distribution system.

**"§ 153-278. Joint provision of enterprisory services.** — Two or more counties, cities, or other units of local government may cooperate in the exercise of any power granted by this article according to the procedures and provisions of G.S. Chapter 160A, Article 20, Part 1.

"Part 2. Special Provisions for Water and Sewer Services

**"§ 153-283. Nonliability for failure to furnish water or sewer services.** — In no case may a county be held liable for damages for failure to furnish water or sewer services.

**"§ 153-284. Power to require connections.** — A county may require the owner of improved property located so as to be served by a water line or sewer collection line owned or operated by the county to connect his premises with the water or sewer system and may fix charges for these connections.

**"§ 153-285. Prerequisites to acquisition of water, water rights, etc.** — The word 'authority' as used in G.S. 162A-7(b) through (f) includes counties and cities acting jointly or through joint agencies to provide water services or sewer services or both. No county or city acting jointly and no joint agency may divert water from one stream or river to another nor institute any proceeding in the nature of eminent domain to acquire water, water rights, or lands having water rights attached thereto until the diversion or acquisition is authorized by a certificate from

the Board of Water and Air Resources pursuant to G.S. 162A-7. Any proceeding to secure a certificate from the Board shall be governed by the provisions of G.S. 162A-7(b) through 162A-7(f).

"§ 153-286. **Law with respect to riparian rights not changed.** — Nothing in this article changes or modifies existing common or statute law with respect to the relative rights of riparian owners or others concerning the use of or disposal of water in the streams of North Carolina.

"§ 153-287. **Diversion of water from certain river basins prohibited.** — Diversions of water from any major river basin the main stream of which downstream from the point of the diversion is not located entirely in North Carolina is prohibited except when the diversion is now permitted by law.

"§ 153-288. **Venue for actions by riparian owners.** — Any riparian owner alleging injury as a result of an act taken pursuant to this article by a county or city acting jointly or by a joint agency may maintain an action for relief against the act (i) in the county where the land of the riparian owner lies, (ii) in the county taking the action, or (iii) in any county in which the city or joint agency is located or operates.

"Part 3. Special Provisions for Solid Waste Collection and Disposal

"§ 153-291. **Cooperation between the State Highway Commission and any county in establishing or operating solid waste disposal facilities.** — A county and the State Highway Commission may enter into an agreement under which the Commission will make available to the county the use of equipment and prison and other labor in order to establish or operate solid waste disposal facilities within the county. The county shall reimburse the Commission for the cost of providing the equipment and labor. The agreement shall specify the work to be done thereunder and shall set forth the basis for reimbursement.

"Article 18

"Planning and Regulation of Development

"Part 1. General Provisions

"§ 153-320. **Territorial jurisdiction.** — Each of the powers granted to counties by this article, by G.S. Chapter 157A, and by G.S. Chapter 160A, Article 19 may be exercised throughout the county except as otherwise provided in G.S. 160A-360.

"§ 153-321. **Planning agency.** — A county may by ordinance create or designate one or more agencies to perform the following duties:

- (1) Make studies of the county and surrounding areas;
- (2) Determine objectives to be sought in the development of the study area;
- (3) Prepare and adopt plans for achieving these objectives;
- (4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
- (5) Advise the board of commissioners concerning the use and amendment of means for carrying out plans;
- (6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the board of commissioners may direct;
- (7) Perform any other related duties that the board of commissioners may direct.

An agency created or designated pursuant to this section may include one or more of the following, with any staff that the board of commissioners considers appropriate:

- (1) A planning board or commission of any size (not less than three members) or composition considered appropriate, organized in any manner considered appropriate;
- (2) A joint planning board created by two or more local governments according to the procedures and provisions of G.S. Chapter 160A, Article 20, Part 1.

**"§ 153-322. Supplemental powers.** — A county or its designated planning agency may accept, receive, and disburse in furtherance of its functions funds, grants, and services made available by the federal government or its agencies, the State government or its agencies, any local government or its agencies, and private or civic sources. A county, or its designated planning agency with the concurrence of the board of commissioners, may enter into and carry out contracts with the State or federal governments or any agencies of either under which financial or other planning assistance is made available to the county and may agree to and comply with any reasonable conditions that are imposed upon the assistance.

A county, or its designated planning agency with the concurrence of the board of commissioners, may enter into and carry out contracts with any other county, city, regional council, or planning agency under which it agrees to furnish technical planning assistance to the other local government or planning agency. A county, or its designated planning agency with the concurrence of the board of commissioners, may enter into and carry out contracts with any other county, city, regional council, or planning agency under which it agrees to pay the other local government or planning agency for technical planning assistance. A county may make any appropriations that may be necessary to carry out an activity or contract authorized by this article, by G.S. Chapter 157A, or by G.S. Chapter 160A, Article 19 or to support any planning agency that it may create or designate pursuant to this article.

**"§ 153-323. Procedure for adopting or amending ordinances under this article and G.S. Chapter 160A, Article 19.** — Before adopting or amending any ordinance authorized by this article or G.S. Chapter 160A, Article 19, the board of commissioners shall hold a public hearing on the ordinance or amendment. The board shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published the first time not less than 15 days nor more than 25 days before the date fixed for the hearing.

**"§ 153-324. Enforcement of ordinances.** — In addition to the enforcement provisions of this article and subject to the provisions of the ordinance, any ordinance adopted pursuant to this article, to G.S. Chapter 157A, or to G.S. Chapter 160A, Article 19 may be enforced by any remedy provided by G.S. 153-123.

"Part 2. Subdivision Regulation

**"§ 153-330. Subdivision regulation.** — A county may by ordinance regulate the subdivision of land within its territorial jurisdiction. If a county, pursuant to G.S. 153-342, has adopted a zoning ordinance that applies only to one or more designated portions of its territorial jurisdiction, it may adopt subdivision regulations that apply only within the areas so zoned and need not regulate the subdivision of land in the rest of its jurisdiction.

**"§ 153-331. Contents and requirements of ordinance.** — A subdivision control ordinance may provide for the orderly growth and development of the county; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. The ordinance may include requirements that the final plat show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformity with good surveying practice.

The ordinance may provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with county policies and standards, and, to assure compliance with these requirements, the ordinance may provide for the posting of bond or any other method that will offer guarantee of compliance.

The ordinance may provide for the reservation of school sites in accordance with comprehensive land use plans approved by the board of commissioners or the planning agency. For the authorization to reserve school sites to be effective, the board of commissioners or planning agency, before approving a comprehensive land use plan, shall determine jointly with the board of education with jurisdiction over the area the specific location and size of each school site to be reserved, and this information shall appear in the plan. Whenever a subdivision that includes part or all of a school site to be reserved under the plan is submitted for approval, the board of commissioners or the planning agency shall immediately notify the board of education. That board shall promptly decide whether it still wishes the site to be reserved and shall notify the board of commissioners or planning agency of its decision. If the board of education does not wish the site to be reserved, no site may be reserved. If the board of education does wish the site to be reserved, the subdivision may not be approved without the reservation. The board of education must acquire the site within 18 months after the date the site is reserved, either by purchase or by exercise of the power of eminent domain. If the board of education has not purchased the site or begun proceedings to condemn the site within the 18 months, the subdivider may treat the land as freed of the reservation.

The ordinance may require that a plat be prepared, approved, and recorded pursuant to its provisions whenever a subdivision of land takes place.

**"§ 153-332. Ordinance to contain procedure for plat approval; approval prerequisite to plat recordation; statement by owner.** — A subdivision ordinance adopted pursuant to this part shall contain provisions setting forth the procedures to be followed in granting or denying approval of a subdivision plat before its registration.

The ordinance shall provide that the following agencies be given an opportunity to make recommendations concerning an individual subdivision plat before the plat is approved:

- (1) The district highway engineer as to proposed streets, highways, and drainage systems;
- (2) The county health director as to proposed water or sewerage systems;
- (3) Any other agency or official designated by the board of commissioners.

The ordinance may provide that final approval of each individual subdivision plat is to be given by:

- (1) The board of commissioners,
- (2) The board of commissioners on recommendation of a planning agency, or
- (3) A designated planning agency.

From the time that a subdivision ordinance is filed with the register of deeds of the county, no subdivision plat of land within the county's jurisdiction may be filed or recorded until it has been submitted to and approved by the appropriate board or agency, as specified in the subdivision ordinance, and until this approval is entered in writing on the face of the plat by the chairman or head of the board or agency. The register of deeds may not file or record a plat of a subdivision of land located within the territorial jurisdiction of the county that has not been approved in accordance with these provisions, and the clerk of superior court may not order or direct the recording of a plat if the recording would be in conflict with this section. The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether any land shown thereon is within the subdivision-regulation jurisdiction of the county.

**"§ 153-333. Effect of plat approval on dedications.** — The approval of a plat does not constitute or effect the acceptance by the county or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat and shall not be construed to do so.

**"§ 153-334. Penalties for transferring lots in unapproved subdivisions.** — If a person who is the owner or the agent of the owner of any land located within the territorial jurisdiction of a county that has adopted a subdivision-regulation ordinance subdivides his land in violation of

the ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the ordinance and recorded in the office of the appropriate register of deeds, he is guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The county may enjoin illegal subdivision, transfer, or sale of land by action for injunction.

**"§ 153-335. Subdivision defined.** — For purposes of this part, 'subdivision' means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this part:

- (1) The combination or recombination of portions of previously platted lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;
- (2) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for widening or opening streets; and
- (4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations.

"Part 3. Zoning

**"§ 153-340. Grant of power.** — For the purpose of promoting health, safety, morals, or the general welfare, a county may regulate and restrict

- (1) the height, number of stories, and size of buildings and other structures,
- (2) the percentage of lot that may be occupied,
- (3) the size of yards, courts, and other open spaces,
- (4) the density of population, and
- (5) the location and use of buildings, structures, and land for trade, industry, residence, or other purposes, except farming.

These regulations may not affect bona fide farms, but any use of farm property for nonfarm purposes is subject to the regulations. The regulations may provide that a board of adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained. The regulations may also provide that the board of adjustment or the board of commissioners may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. Where appropriate, the conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided.

**"§ 153-341. Purposes in view.** — Zoning regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration as to, among other things, the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land

throughout the county. In addition, the regulations shall be made with reasonable consideration to expansion and development of any cities within the county, so as to provide for their orderly growth and development.

**"§ 153-342. Districts; zoning less than entire jurisdiction.** — A county may divide its territorial jurisdiction into districts of any number, shape, and area that it may consider best suited to carry out the purposes of this part. Within these districts a county may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

A county may determine that the public interest does not require that the entire territorial jurisdiction of the county be zoned and may designate one or more portions of that jurisdiction as a zoning area or areas. A zoning area must originally contain at least 640 acres and at least 10 separate tracts of land in separate ownership and may thereafter be expanded by the addition of any amount of territory. A zoning area may be regulated in the same manner as if the entire county were zoned, and the remainder of the county need not be regulated.

**"§ 153-343. Method of procedure.** — The board of commissioners shall, in accordance with the provisions of this article, provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed.

**"§ 153-344. Planning agency; zoning plan; certification to board of commissioners; amendments.** — To exercise the powers conferred by this part, a county shall create or designate a planning agency under the provisions of this article or of a local act. The planning agency shall prepare a zoning plan, including both the full text of a zoning ordinance and maps showing proposed district boundaries. The planning agency may hold public hearings in the course of preparing the plan. Upon completion, the planning agency shall certify the plan to the board of commissioners. The board of commissioners may not hold the public hearing required by G.S. 153-323 or take action until it has received a certified plan from the planning agency. Following its required public hearing, the board of commissioners may refer the plan back to the planning agency for any further recommendations that the agency may wish to make prior to final action by the board in adopting, modifying and adopting, or rejecting the ordinance.

Zoning regulations and restrictions and zone boundaries may from time to time be amended, supplemented, changed, modified, or repealed. Whenever territory is added to an existing designated zoning area, it shall be treated as an amendment to the zoning ordinance for that area. Before an amendment may be adopted, it must be referred to the planning agency for the agency's recommendation. The agency shall be given at least 30 days in which to make a recommendation. The board of commissioners is not bound by the recommendations, if any, of the planning agency.

**"§ 153-345. Board of adjustment.** — (a) The board of commissioners may provide for the appointment and compensation, if any, of a board of adjustment consisting of at least five members, each to be appointed for three years. In appointing the original members of the board, or in filling vacancies caused by the expiration of the terms of existing members, the board of commissioners may appoint some members for less than three years to the end that thereafter the terms of all members do not expire at the same time. The board of commissioners may provide for the appointment and compensation, if any, of alternate members to serve on the board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of a regular member, has and may exercise all the powers and duties of a regular member. If the board of commissioners does not zone the entire territorial jurisdiction of the county, each designated zoning area shall have at least one resident as a member of the board of adjustment.

A county may designate a planning agency to perform the duties of a board of adjustment in addition to its other duties.

(b) The board of adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing an ordinance adopted pursuant to this part. Any person aggrieved or any officer, department, board, or bureau of the county may take an appeal. Appeals shall be taken within times prescribed by the board of adjustment by general rule, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after notice of appeal has been filed with him, that because of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In that case proceedings may not be stayed except by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give due notice of the appeal to the parties, and decide the appeal within a reasonable time. The board of adjustment may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the circumstances. To this end the board has all the powers of the officer from whom the appeal is taken.

(c) The zoning ordinance may provide that the board of adjustment may permit special exceptions to the zoning regulations in classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified in the ordinance. The ordinance may also authorize the board to interpret zoning maps and pass upon disputed questions of lot lines or district boundary lines and similar questions that may arise in the administration of the ordinance. The board shall hear and decide all matters referred to it or upon which it is required to pass under the zoning ordinance.

(d) When practical difficulties or unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment may, in passing upon appeals, vary or modify any regulation or provision of the ordinance relating to the use, construction, or alteration of buildings or structures or the use of land, so that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done.

(e) The board of adjustment, by a vote of four-fifths of its members, may reverse any order, requirement, decision, or determination of an administrative officer charged with enforcing an ordinance adopted pursuant to this part, or may decide in favor of the applicant a matter upon which the board is required to pass under the ordinance, or may grant a variance from the provisions of the ordinance. Each decision of the board is subject to review by the superior court by proceedings in the nature of certiorari.

(f) The chairman of the board of adjustment or any member temporarily acting as chairman may in his official capacity administer oaths to witnesses in any matter coming before the board.

**"§ 153-346. Conflict with other laws.** — When regulations made under authority of this part require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this part govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by

regulations made under authority of this part, the provisions of the other statute or local ordinance or regulation govern.

**"§ 153-347. Part applicable to buildings constructed by the State and its subdivisions.** — Each provision of this part is applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions.

"Part 4. Building Inspection

**"§ 153-350. 'Building' defined.** — As used in this part, the words 'building' or 'buildings' include other structures.

**"§ 153-351. Inspection department; certification of electrical inspectors.** — (a) A county may create an inspection department, consisting of one or more inspectors who may be given the titles of building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire prevention inspector, deputy or assistant inspector, or any other title that is generally descriptive of the duties assigned. The department may be headed by a superintendent or director of inspections.

(b) No person may perform electrical inspections pursuant to this part unless he has been certified as qualified by the Commissioner of Insurance. To be certified a person must pass a written examination based on the electrical regulations included in the latest edition of the State Building Code as filed with the Secretary of State. The examination shall be under the supervision of and conducted according to rules and regulations prescribed by the Chief State Electrical Inspector or Engineer of the State Department of Insurance and the Board of Examiners of Electrical Contractors. It shall be held quarterly, in Raleigh or any other place designated by the Chief State Electrical Inspector or Engineer.

The rules and regulations may provide for the certification of class I, class II, and class III inspectors, according to the results of the examination. The examination shall be based on the type and character of electrical installations being made in the territory in which the applicant wishes to serve as an electrical inspector. A class I inspector may serve anywhere in the State, but class II and class III inspectors shall be limited to service in the territory for which they have qualified.

The Commissioner of Insurance shall issue a certificate to each person who passes the examination, approving the person for service in a designated territory. To remain valid, a certificate must be renewed each January by payment of an annual renewal fee of \$1.00. The examination fee shall be \$5.00.

If the person appointed by a county as electrical inspector fails to pass the examination, the county shall continue to make appointments until an appointee has passed the examination. For the interim the Commissioner of Insurance may authorize the county to use a temporary inspector.

**"§ 153-352. Duties and responsibilities.** — The duties and responsibilities of an inspection department and of the inspectors in it are to enforce within the county's territorial jurisdiction State and local laws and local ordinances and regulations relating to:

- (1) The construction of buildings;
- (2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;
- (3) The maintenance of buildings in a safe, sanitary, and healthful condition;
- (4) Other matters that may be specified by the board of commissioners.

These duties and responsibilities include receiving applications for permits and issuing or denying permits, making necessary inspections, issuing or denying certificates of compliance, issuing orders to correct violations, bringing judicial actions against actual or threatened violations, keeping adequate records, and taking any other actions that may be required to adequately enforce the laws and ordinances and regulations. The board of commissioners may enact reasonable and appropriate provisions governing the enforcement of the laws and ordinances and regulations.

"§ 153-353. **Joint inspection department; other arrangements.** — A county may enter into and carry out contracts with one or more other counties or cities under which the parties agree to create and support a joint inspection department for enforcing those State and local laws and local ordinances and regulations specified in the agreement. The governing bodies of the contracting units may make any necessary appropriations for this purpose.

In lieu of a joint inspection department, a county may designate an inspector from another county or from a city to serve as a member of the county inspection department, with the approval of the governing body of the other county or city. The inspector, while exercising the duties of the position, is a county employee.

"§ 153-354. **Financial support.** — A county may appropriate any available funds for the support of its inspection department. It may provide for paying inspectors fixed salaries, or it may reimburse them for their services by paying over part or all of any fees collected. It may fix reasonable fees for issuing permits, for inspections, and for other services of the inspection department.

"§ 153-355. **Conflicts of interest.** — Unless he is the owner of the building, no member of an inspection department may be financially interested in furnishing labor, material, or appliances for the construction, alteration, or maintenance of any building within the county's territorial jurisdiction or any part or system thereof, or in making plans or specifications therefor. No member of any inspection department may engage in any work that is inconsistent with his duties or with the interest of the county.

"§ 153-356. **Failure to perform duties.** — If a member of an inspection department willfully fails to perform the duties required of him by law, or willfully improperly issues a permit, or gives a certificate of compliance without first making the inspections required by law, or willfully improperly gives a certificate of compliance, he is guilty of a misdemeanor.

"§ 153-357. **Permits.** — No person may commence or proceed with:

- (1) The construction, reconstruction, alteration, repair, removal, or demolition of any building;
- (2) The installation, extension, or general repair of any plumbing system;
- (3) The installation, extension, alteration, or general repair of any heating or cooling equipment system; or
- (4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment

without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work. A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations. No permit may be issued unless the plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor. Violation of this section constitutes a misdemeanor.

"§ 153-358. **Time limitations on validity of permits.** — A permit issued pursuant to G.S. 153-357 expires six months, or any lesser time fixed by ordinance of the county, after the date of issuance if the work authorized by the permit has not commenced. If after commencement the work is discontinued for a period of 12 months, the permit therefor immediately expires. No work authorized by a permit that has expired may thereafter be performed until a new permit has been secured.

"§ 153-359. **Changes in work.** — After a permit has been issued, no change or deviation from the terms of the application, the plans and specifications, or the permit, except if the change or deviation is clearly permissible under the State Building Code, may be made until specific written approval of the proposed change or deviation has been obtained from the inspection department.

"§ 153-360. **Inspections of work in progress.** — As the work pursuant to a permit progresses, local inspectors shall make as many inspections of the work as may be necessary to satisfy them that it is being done according to the provisions of the applicable State and local laws and local ordinances and regulations and of the terms of the permit. In exercising this power, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

"§ 153-361. **Stop orders.** — Whenever a building or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in substantial violation of a State or local building law or local building ordinance or regulation, or in a manner that endangers life or property, the appropriate inspector may order the specific part of the work that is in violation or that presents such a hazard to be immediately stopped. The stop order shall be in writing and directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. The owner or builder may appeal from a stop order to the North Carolina Commissioner of Insurance within five days after the day the order is issued. The owner or builder shall give to the Commissioner of Insurance written notice of appeal, with a copy to the local inspector. The Commissioner shall promptly conduct a hearing at which the appellant and the inspector shall be permitted to submit relevant evidence, and the Commissioner shall rule on the appeal as expeditiously as possible. Pending the ruling by the Commissioner of Insurance on an appeal, no further work may take place in violation of a stop order. Violation of a stop order constitutes a misdemeanor.

"§ 153-362. **Revocation of permits.** — The appropriate inspector may revoke and require the return of any permit by giving written notice to the permit holder, stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application or plans and specifications, for refusal or failure to comply with the requirements of any applicable State or local laws or local ordinances or regulations, or for false statements or misrepresentations made in securing the permit. A permit mistakenly issued in violation of an applicable State or local law or local ordinance or regulation also may be revoked.

"§ 153-363. **Certificates of compliance.** — At the conclusion of all work done under a permit, the appropriate inspector shall make a final inspection. If he finds that the completed work complies with all applicable State and local laws and local ordinances and regulations and with the terms of the permit, he shall issue a certificate of compliance. No new building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied until the inspection department has issued a certificate of compliance. A temporary certificate of compliance may be issued permitting occupancy for a stated period of specified portions of the building that the inspector finds may safely be occupied before completion of the entire building. Violation of this section constitutes a misdemeanor.

"§ 153-364. **Periodic inspections for hazardous or unlawful conditions.** — The inspection department shall make periodic inspections, subject to the board of commissioners' directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings within its territorial jurisdiction. In addition, it shall make any necessary inspections when it has reason to believe that such conditions may exist in a particular building. In exercising these powers, each member of the inspection department has a right, upon presentation of proper credentials, to

enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

"§ 153-365. **Defects in buildings to be corrected.** — If a local inspector finds any defect in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws and local ordinances and regulations, or finds that a building because of its condition is dangerous or contains fire hazardous conditions, he shall notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner and the occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property each owns.

"§ 153-366. **Unsafe buildings condemned.** — The inspector shall condemn as unsafe each building that appears to him to be especially dangerous to life because of its liability to fire, bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes; and he shall affix a notice of the dangerous character of the building to a conspicuous place on its exterior wall.

"§ 153-367. **Removing notice from condemned building.** — If a person removes a notice that has been affixed to a building by a local inspector and that states the dangerous character of the building, he is guilty of a misdemeanor.

"§ 153-368. **Action in event of failure to take corrective action.** — If the owner of a building that has been condemned as unsafe pursuant to G.S. 153-366 fails to take prompt corrective action, the local inspector shall by certified or registered mail to his last known address or by personal service give him written notice:

- (1) that the building is in a condition that appears to constitute a fire or safety hazard or to be dangerous to life, health, or other property;
- (2) that a hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner is entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- (3) that following the hearing, the inspector may issue any order to repair, close, vacate, or demolish the building that appears appropriate.

If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building in question at least 10 days before the day of the hearing and a notice of the hearing is published at least once not later than one week before the hearing.

"§ 153-369. **Order to take corrective action.** — If, upon a hearing held pursuant to G.S. 153-368, the inspector finds that the building is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, he shall issue a written order, directed to the owner of the building, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or taking other necessary steps, within such period, not less than 60 days, as the inspector may prescribe.

"§ 153-370. **Appeal; finality of order not appealed.** — An owner who has received an order under G.S. 153-369 may appeal from the order to the board of commissioners by giving written notice of appeal to the inspector and to the clerk within 10 days following the day the order is issued. In the absence of an appeal, the order of the inspector is final. The board of commissioners shall hear any appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

"§ 153-371. **Failure to comply with order.** — If the owner of a building fails to comply with an order issued pursuant to G.S. 153-369 from which no appeal has been taken, or fails to comply with an order of the board of commissioners following an appeal, he is guilty of a misdemeanor.

"§ 153-372. **Equitable enforcement.** — Whenever a violation is denominated a misdemeanor under the provisions of this part, the county, either in addition to or in lieu of other remedies,

may initiate any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building involved.

"§ 153-373. **Records and reports.** — The inspection department shall keep complete, permanent, and accurate records in convenient form of each application received, each permit issued, each inspection and reinspection made, and each defect found, each certificate of compliance granted, and all other work and activities of the department. The department shall submit periodic reports to the board of commissioners and to the Commissioner of Insurance as the board or the Commissioner may require.

"§ 153-374. **Appeals.** — Unless otherwise provided by law, any appeal from an order, decision, or determination of a member of a local inspection department pertaining to the State Building Code or any other State building law shall be taken to the Commissioner of Insurance or other official specified in G.S. 143-139, by filing a written notice with him and with the inspection department within 10 days after the day of the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.

"§ 153-375. **Establishment of fire limits.** — A county may by ordinance establish and define fire limits in any area within the county and not within a city. The limits may include only business and industrial areas. Within any fire limits, no frame or wooden building or addition thereto may be erected, altered, repaired, or moved (either into the fire limits or from one place to another within the limits) except upon the permit of the inspection department and approval of the Commissioner of Insurance. The board of commissioners may make additional regulations necessary for the prevention, extinguishment, or mitigation of fires within the fire limits.

#### "Article 19

#### "Regional Planning Commissions

"§ 153-391. **Creation; admission of new members.** — Two or more counties, cities, or counties and cities may create a regional planning commission by adopting identical concurrent resolutions to that effect in accordance with the provisions and procedures of this article. A county or city may join an existing regional planning commission with the consent of the existing member governments.

The resolution creating a regional planning commission may be modified, amended, or repealed by the unanimous action of the member governments.

"§ 153-392. **Contents of resolution.** — The resolutions creating a regional planning commission shall:

- (1) Specify the name of the commission;
- (2) Establish the number of delegates to represent each member government, fix the delegates' terms of office and the conditions, if any, for their removal, provide methods for filling vacancies, and prescribe the compensation and allowances, if any, to be paid to delegates;
- (3) Set out the method of determining the financial support that will be given to the commission by -each member government;
- (4) Set out the budgetary and fiscal control procedures to be followed by the commission, which shall substantially comply with the Local Government Budget and Fiscal Control Act (G.S. Chapter 159, Subchapter III).

In addition the resolution may, but need not, contain rules and regulations for the conduct of commission business and any other matters pertaining to the organization, powers, and functioning of the commission that the member governments consider appropriate.

"§ 153-393. **Withdrawal from commission.** — A member government may withdraw from a regional planning commission by giving at least two years' written notice to the other counties and cities involved.

"§ 153-394. **Organization of the commission.** — Upon its creation, a regional planning commission shall meet at a time and place agreed upon by the counties and cities involved. It shall organize by electing a chairman and any other officers that the resolution specifies or that the commission considers advisable. The commission may adopt bylaws for the conduct of its business. All commission meetings shall be open to the public.

The chairman of the commission may appoint any committees authorized by the bylaws. Committee members need not be delegates to the commission.

"§ 153-395. **Powers and duties.** — A regional planning commission may:

- (1) Apply for, accept, receive, and disburse funds, grants, and services made available to it by the State of North Carolina or any agency thereof, the federal government or any agency thereof, any unit of local government or any agency thereof, or any private or civic agency;
- (2) Employ personnel;
- (3) Contract with consultants;
- (4) Contract for services with the State of North Carolina, any other state, the United States, or any agency of those governments;
- (5) Study and inventory regional goals, resources, and problems;
- (6) Prepare and amend regional development plans, which may include recommendations for land use within the region, recommendations concerning the need for and general location of public works of regional concern, recommendations for economic development of the region, and any other relevant matters;
- (7) Cooperate with and provide assistance to federal, State, other regional, and local planning activities within the region;
- (8) Encourage local efforts toward economic development;
- (9) Make recommendations for review and action to its member governments and other public agencies that perform functions within the region;
- (10) Exercise any other power necessary to the discharge of its duties.

"§ 153-396. **Fiscal affairs.** — Each county and city having membership in a regional planning commission may appropriate to the commission revenues not otherwise limited as to use by law. Services of personnel, use of equipment and office space, and other services may be made available to a commission by its member governments as a part of their financial support.

"§ 153-397. **Reports.** — Each regional planning commission shall prepare and distribute to its member governments and make available to the public an annual report of its activities, including a financial statement.

"§ 153-398. **Regional planning and economic development commissions.** — Two or more counties, cities, or counties and cities may create a regional planning and economic development commission by adopting identical concurrent resolutions to that effect. Such a commission has the powers granted by this article and the powers granted by G.S. Chapter 158, Article 2. If such a commission is created, it shall maintain separate books of account for appropriations and expenditures made pursuant to this article and for appropriations and expenditures made pursuant to G.S. Chapter 158, Article 2.

"Article 20

"Consolidation and Governmental Study Commissions

"§ 153-401. **Establishment; support.** — (a) Two or more counties or cities or counties and cities may by concurrent resolutions of their governing bodies establish a charter or governmental study commission as provided in this section:

- (1) Two or more counties that are contiguous or that lie within a continuous boundary may create a commission to study the consolidation of the counties or of one or more functions and services of the counties.

- (2) Two or more cities that are contiguous or that lie within a continuous boundary may create a commission to study the consolidation of the cities or of one or more functions and services of the cities.
- (3) A county and one or more cities within the county may create a commission to study the consolidation of the county and the city or cities or of one or more of their functions and services.

(b) A county or city that participates in the establishment of a commission pursuant to this article may appropriate for the support of the commission any revenues not otherwise limited as to use by law.

**"§ 153-402. Purposes of a commission.** — A commission established pursuant to this article may be charged with any of the following purposes:

- (1) To study the powers, duties, functions, responsibilities, and organizational structures of the counties or cities that established the commission and of other units of local government and public agencies within those counties or cities;
- (2) To prepare a report on its studies and findings;
- (3) To prepare a plan for consolidating one or more functions and services of the governments that established the commission;
- (4) To prepare drafts of any agreements or legislation necessary to effect the consolidation of one or more functions and services;
- (5) To prepare a plan for consolidating into a single government some or all of the governments that established the commission;
- (6) To prepare drafts of any legislation necessary to effect the plan of governmental consolidation;
- (7) To call a referendum, as provided in G.S. 153-405, on the plan of governmental consolidation.

**"§ 153-403. Content of concurrent resolutions.** — The concurrent resolutions establishing a commission shall:

- (1) Set forth the purposes that are to be vested in the commission pursuant to G.S. 153-402;
- (2) Determine the composition of the commission, the manner of appointment of its members, and the manner of selection of its officers;
- (3) Determine the compensation, if any, to be paid to commission members;
- (4) Provide for the organizational meeting of the commission;
- (5) Set out the method for determining the financial support that will be given to the commission by each of the governments establishing the commission;
- (6) Set forth the date by which the commission is to complete its work;
- (7) Set forth any other directions or limitations considered necessary.

**"§ 153-404. Powers of a commission.** — A commission established pursuant to this article may:

- (1) Adopt rules and regulations for the conduct of its business;
- (2) Apply for, accept, receive, and disburse funds, grants, and services made available to it by the State of North Carolina or any agency thereof, the federal government or any agency thereof, any unit of local government, or any private or civic agency;
- (3) Employ personnel;
- (4) Contract with consultants;
- (5) Hold hearings in the furtherance of its business;
- (6) Take any other action necessary or expedient to the furtherance of its business.

"§ 153-405. **Referendum; General Assembly action.** — If authorized to do so by the concurrent resolutions that established it, a commission may call a referendum on its proposed plan of governmental consolidation. The referendum may be held on the same day as any other referendum or election in the county or counties involved, but may not otherwise be held during the period beginning 30 days before and ending 30 days after the day of any other referendum or election to be conducted by the board or boards of elections conducting the referendum and already validly called or scheduled by law.

The proposition submitted to the voters shall be substantially in one of the following forms:

- (1) Shall the County of \_\_\_\_\_ and the County of \_\_\_\_\_ be consolidated?
- (2) Shall the City of \_\_\_\_\_ and the City of \_\_\_\_\_ be consolidated?
- (3) Shall the City of \_\_\_\_\_ be consolidated with the County of \_\_\_\_\_? If the proposition is to consolidate two or more counties or to consolidate two or more cities, to be approved it must receive the votes of a majority of those voting in each of the counties or cities, as the case may be. If the proposition is to consolidate one or more cities with a county, to be approved it must receive the votes of a majority of those voting in the referendum. In addition, no governmental consolidation may become effective until enacted into law by the General Assembly.

"Article 23

"Miscellaneous Provisions

"§ 153-435. **Liability insurance; damage suits against a county involving governmental functions.** — (a) A county may contract to insure itself and any of its officers, agents, or employees against liability for wrongful death or negligent or intentional damage to person or property or against absolute liability for damage to person or property caused by an act or omission of the county or of any of its officers, agents, or employees when acting within the scope of their authority and the course of their employment. The board of commissioners shall determine what liabilities and what officers, agents, and employees shall be covered by any insurance purchased pursuant to this subsection.

Purchase of insurance pursuant to this subsection waives the county's governmental immunity, to the extent of insurance coverage, for any act or omission occurring in the exercise of a governmental function. By entering into an insurance contract with the county, an insurer waives any defense based upon the governmental immunity of the county.

(b) If a county has waived its governmental immunity pursuant to subsection (a) of this section, any person, or if he dies, his personal representative, sustaining damages as a result of an act or omission of the county or any of its officers, agents, or employees, occurring in the exercise of a governmental function, may sue the county for recovery of damages. To the extent of the coverage of insurance purchased pursuant to subsection (a) of this section, governmental immunity may not be a defense to the action. Otherwise, however, the county has all defenses available to private litigants in any action brought pursuant to this section without restriction, limitation, or other effect, whether the defense arises from common law or by virtue of a statute.

Despite the purchase of insurance as authorized by subsection (a) of this section, the liability of a county for acts or omissions occurring in the exercise of governmental functions does not attach unless the plaintiff waives the right to have all issues of law or fact relating to insurance in the action determined by a jury. The judge shall hear and determine these issues without resort to a jury, and the jury shall be absent during any motion, argument, testimony, or announcement of findings of fact or conclusions of law relating to these issues unless the defendant requests a jury trial on them.

"§ 153-436. **Photographic reproduction of county records.** — (a) A county may provide for the reproduction, by photocopy, photograph, microphotograph, or any other method of reproduction that gives legible and permanent copies, of instruments, documents, and other

papers filed with the register of deeds and of any other county records. The county shall keep each reproduction of an instrument, document, paper, or other record in a fire-resistant file, vault, or similar container. If a duplicate reproduction is made to provide a security-copy, the county shall keep the duplicate in a fire-resistant file, vault, or similar container separate from that housing the principal reproduction.

If a county has provided for reproducing records, any custodian of public records of the county may cause to be reproduced any of the records under, or coming under, his custody.

(b) If a county has provided for reproducing some or all county records, the custodian of any instrument, document, paper, or other record may permit it to be removed from its regular repository for up to 24 hours in order to be reproduced. An instrument, document, paper or other record may be removed from the county in order to be reproduced. The board of commissioners may permit an instrument, document, paper, or other record to be removed for longer than 24 hours if a longer period is necessary to complete the process of reproduction.

(c) The original of any instrument, document, or other paper received by the register of deeds and reproduced pursuant to this article shall be filed, maintained, and disposed of in accordance with G.S. 161-17 and G.S. 121-5. The original of any other county record that is reproduced pursuant to this article may be kept by the county or disposed of pursuant to G.S. 121-5.

(d) If an instrument, document, or other paper received by the register of deeds is reproduced pursuant to this article, the recording of the reproduction is a sufficient recording for all purposes.

(e) A reproduction, made pursuant to this article, of an instrument, document, paper, or other record is as admissible in evidence in any judicial or administrative proceeding as the original itself, whether the original is extant or not. An enlargement or other facsimile of the reproduction is also admissible in evidence if the original reproduction is extant and available for inspection under the direction of the court or administrative agency.

**"§ 153-437. Assistance to historical organizations.** — (a) A county or city may appropriate revenues not otherwise limited as to use by law to a local historical or preservation society, museum, or other similar organization. Before such an appropriation may be made, the recipient organization shall adopt and present to the county or city a resolution requesting the funds and describing the intended use of the funds. The funds may be used for preserving historic sites, buildings, structures, areas, or objects; for recording and publishing materials relating to the history of the area; for establishing or maintaining historical museums or projects; for paying salaries of personnel employed in such museums or projects; for the costs of acquiring, recording, and maintaining materials and equipment; and for any other purposes that are approved by the county or city and that contribute to the preservation of historic sites, buildings, structures, areas, or objects, or historic materials. The ordinance making the appropriation shall state specifically what the appropriation is to be used for, and the governing board of the county or city shall require that the recipient account for the appropriation at the close of the fiscal year.

(b) A county or city, a board of education, or the board of trustees of a public library may make available space in a building under its control to a local historical society, historical museum, or other historical organization.

(c) This section is supplemental to and does not supersede any other law.

**"§ 153-438. Beach erosion control and flood and hurricane protection works.** — A county may appropriate revenues not otherwise limited as to use by law to finance the acquisition, construction, reconstruction, extension, maintenance, improvement, or enlargement of groins, jetties, dikes, moles, walls, sand dunes, vegetation, or other types of works or improvements that are designed for controlling beach erosion, for protection from hurricane floods, or for preserving or restoring facilities and natural features that afford protection to the beaches and other land areas of the county and to the life and property of the county.

"§ 153-439. **Support of extension activities; personnel rules for extension employees.** — A county may support the work of the North Carolina Agricultural Extension Service and for these purposes may appropriate revenues not otherwise limited as to use by law.

If a county adopts rules and regulations concerning annual leave, sick leave, hours of employment, and holidays that apply to county employees generally, these rules and regulations apply to county extension employees. Otherwise, the rules and regulations adopted by the North Carolina Agricultural Extension Service concerning these matters apply to county extension employees.

"§ 153-440. **Promotion of soil and water conservation work.** — A county may cooperate with and support the work of the Federal Soil Conservation Service and the State and local soil and water conservation agencies and districts and for these purposes may appropriate revenues not otherwise limited as to use by law.

"§ 153-441. **County surveyor.** — A county may appoint a person registered as a land surveyor pursuant to G.S. Chapter 89 as county surveyor.

"§153-442. **Animal shelters.** — A county may establish, equip, operate, and maintain an animal shelter or may contribute to the support of an animal shelter, and for these purposes may appropriate funds not otherwise limited as to use by law.

"§ 153-443. **Redesignation of site of 'courthouse door etc.** — If a county determines that the traditional location of the 'courthouse,' the 'courthouse door,' the 'courthouse bulletin board' or the 'courthouse steps' has become inappropriate or inconvenient for the doing of any act or the posting of any notice required by law to be done or posted at such a site, the county may by ordinance designate some appropriate or more convenient location for the site. The board of commissioners shall cause such an ordinance to be published at least once within 30 days after the day it is adopted and shall cause a copy of it to be posted for 60 days at the traditional location.

"§ 153-444. **Parks and recreation.** — A county may establish parks and provide recreational programs pursuant to G.S. Chapter 160A, Article 18.

"§ 153-445. **Miscellaneous powers found in G.S. Chapter 160A.** — (a) A county may take action under the following provisions of G.S. Chapter 160A:

1. G.S. Chapter 160A, Article 20, Part 1. — Joint Exercise of Powers.
2. G.S. Chapter 160A, Article 21, Part 2. — Regional Councils of Governments.
3. G.S. 160A-487. — Financial support for rescue squads.
4. G.S. 160A-488. — Art galleries and museums.
5. G.S. 160A-489. — Human relations programs.

(b) This section is for reference only, and the failure of any section of G.S. Chapter 160A to appear in this section does not affect the applicability of that section to counties."

**Sec. 2.** Chapter 956 of the 1969 Session Laws continues in effect and is not repealed by this act. However, Chapter 956 shall not be codified in G.S. Chapter 153.

The repeal by this act of former G.S. 153-4 and 153-5 does not affect in any way the structure or manner of election of any board of county commissioners the structure or manner of election of which was established by those sections. Rather, as provided by G.S. 153-34, as enacted by Section 1 of this act, each board of commissioners shall continue to have the same structure and manner of election as it has on the effective date of this act until that structure or manner of election is changed in accordance with law.

The following acts enacted by and bills pending in the 1973 General Assembly shall be codified in G.S. Chapter 153 as enacted by Section 1 of this act, as provided herein:

1. Chapter 489, 1973 Session Laws, shall be codified as Article 16, beginning with G.S. 153-300.

2. House Bill 333, if enacted by the 1973 General Assembly, shall be codified by codifying Section 1 thereof as G.S. 153-149, replacing G.S. 153-149 asset out in Section 1 of this act.
3. If House Bill 338 or Senate Bill 271 is enacted by the 1973 General Assembly, then Section 2 thereof shall be codified as G.S. 153-166.
4. If House Bill 390 is enacted by the 1973 General Assembly, then G.S. 153-273 as enacted by that bill shall be codified as G.S. 153-292.

**Sec. 3.** Article 15 of Chapter 153 of the General Statutes, G.S. 153-177 through G.S. 153-198, as the article existed immediately before the effective date of this act, is re-enacted and transferred to Chapter 162 of the General Statutes as a new Article 4, G.S. 162-26 through G.S. 162-47.

**Sec. 4.** Article 25 of Chapter 153 of the General Statutes, G.S. 153-295 through G.S. 153-324, as the article existed immediately before the effective date of this act, is re-enacted and transferred to Chapter 162A of the General Statutes as a new Article 5, G.S. 162A-59 through G.S. 162A-77.

**Sec. 5.** G.S. Chapter 154 ("County Surveyor") is repealed.

**Sec. 6.** (a) Article 3 of Chapter 67 of the General Statutes (G.S. 67-19 through G.S. 67-28) is repealed.

(b) The following sections of Chapter 67 of the General Statutes are repealed: G.S. 67-5, G.S. 67-6, G.S. 67-7, G.S. 67-8, G.S. 67-9, G.S. 67-10, G.S. 67-11, G.S. 67-13, G.S. 67-33, G.S. 67-34, G.S. 67-35.

(c) All local acts and clauses of local acts modifying any section of the General Statutes repealed by this section or otherwise relating to the use of the proceeds of the dog tax heretofore levied pursuant to G.S. 67-5 (herein repealed) are repealed.

(d) G.S. 67-30 is rewritten as follows:

**"§ 67-30. Appointment of animal control officers authorized; salary, etc.** — A county may appoint one or more animal control officers and may fix their salaries, allowances, and expenses."

**Sec. 7.** Article 10 of Chapter 160A of the General Statutes is amended by inserting a new section as follows:

**"§ 160A-238. Authority to make assessments for beach erosion control and flood and hurricane protection works.** — A city may make special assessments, according to the procedures of this article, against benefited property within the city for all or part of the costs of acquiring, constructing, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works. Assessments for these projects may be made on the basis of:

- (1) The frontage abutting on the project, at an equal rate per foot of frontage; or
- (2) The frontage abutting on a beach or shoreline protected or benefited by the project, at an equal rate per foot of frontage; or
- (3) The area of land benefited by the project, at an equal rate per unit of area; or
- (4) The valuation of land benefited by the project, being the value of the land without improvements as shown on the tax records of the county, at an equal rate per dollar of valuation; or
- (5) A combination of two or more of these bases.

Whenever the basis selected for assessment is either area or valuation, the council shall provide for the laying out of one or more benefit zones according to the distance from the shoreline, the distance from the project, the elevation of the land, or other relevant factors. If more than one benefit zone is established, the council shall establish differing rates of assessment to apply uniformly throughout each benefit zone."

**Sec. 8.** The Revisor of Statutes is authorized to designate the new General Statutes Chapter enacted by Section 1 of this act as General Statutes Chapter 153A.

**Sec. 9.** No provision of this act is intended, nor may any be construed, to affect in any way a right or interest, public or private:

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

(b) Derived from or which might be sustained or preserved in reliance upon, action (including the adoption of orders, resolutions, or ordinances) taken before the effective date of this act pursuant to or within the scope of a provision of law repealed by this act.

**Sec. 10.** No law repealed, expressly or by implication, before the effective date of this act and no law granting authority that has been exhausted before the effective date of this act is revived by:

(a) The repeal in this act of any act repealing such a law; or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated, designated, or described laws.

**Sec. 11.** No provision of this act is intended, nor may any be construed, to impair the obligation of any bond, note, or coupon outstanding on the effective date of this act.

**Sec. 12.** No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act is abated or otherwise affected by the adoption of this act.

**Sec. 13.** If a provision of this act or the application of a provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

**Sec. 14.** All laws and clauses of laws in conflict with the provisions of this act are repealed.

**Sec. 15.** This act is effective February 1, 1974.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.