

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 861*

Short Title: Burlington Charter/Revision and Consolidation. (Local)

Sponsors: Senator Gunn (Primary Sponsor).

Referred to: State and Local Government.

May 28, 2014

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF
BURLINGTON.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Burlington is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF BURLINGTON.

"CHAPTER I. ORGANIZATION AND POWERS.

"SUBCHAPTER A. INCORPORATION, CORPORATE POWERS AND THEIR EXERCISE.

"Section 1.01. **Incorporation and Corporate Powers.** The City of Burlington shall continue to be a body politic and corporate by the name of "City of Burlington." Under that name the City shall continue to be vested with all property and rights of property which now belong to the municipal corporation; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract and be contracted with; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold, or in any manner conveyed or dedicated to or otherwise acquired by it and, from time to time, may hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.

"Section 1.02. **Exercise of Power.** All powers, functions, rights, privileges, and immunities of the City, its officers, agencies, or employees shall be carried into execution as provided by this Charter. If this Charter makes no provision, such powers, functions, rights, privileges, and immunities shall be carried into execution as provided by ordinance or resolution of the City Council and as provided by the pertinent general laws of North Carolina.

"SUBCHAPTER B. CITY BOUNDARIES.

"Section 1.21. **Corporate Limits.** The corporate limits of the City shall be those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with law. An official map of the City, showing the current boundaries, shall be maintained permanently in the Office of the City Clerk and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map shall be made, and copies shall be filed in the Office of the Secretary of State, the Alamance County Register of Deeds, the Guilford County Register of Deeds, and the appropriate boards of elections.

"SUBCHAPTER C. CHAPTER AMENDMENTS.

"Section 1.41. **Incorporation of Amendments.**



1 (a) As soon as possible after the adjournment of each General Assembly, the City
2 Attorney shall present to the City Council copies of all local laws relating to the property,
3 affairs, and government of the City of Burlington that were enacted by the General Assembly,
4 whether or not in terms amending this Charter, which the City Attorney recommends be
5 incorporated into this Charter. Such recommendations may include suggestions for
6 renumbering or rearranging the provisions of the laws, for providing titles and catch lines, and
7 for such other changes in arrangement and form that do not change the law as may be thought
8 necessary to implement the purposes of this section.

9 (b) After considering the recommendations of the City Attorney, the City Council may
10 provide for the incorporation of such laws into this Charter.

11 (c) The purpose of this section is to enable the City to maintain at all times a current
12 and accurate City Charter, organized in clear and orderly fashion and embracing all local laws
13 relating to the property, affairs, and government of the City.

14 "CHAPTER II. COMPOSITION OF CITY COUNCIL; ELECTIONS.

15 "SUBCHAPTER A. COMPOSITION AND METHOD OF ELECTION OF CITY COUNCIL.

16 "Section 2.01. **Composition, election, and terms of City Council.**

17 (a) The City Council shall consist of four members and a Mayor who shall be elected at
18 large by and from the qualified voters of the City. The Mayor shall be elected for a term of two
19 years and the members of City Council for a term of four years.

20 (b) The terms of all members shall begin at the date and hour prescribed by Section
21 3.03 of this Charter for the taking of the oath of office, but members shall serve until their
22 successors are elected and qualified. In the event that it is not possible otherwise to determine
23 which of two or more persons should be considered a holdover Councilmember or holdover
24 Councilmembers, a decision shall be made by lot between the outgoing Councilmembers who
25 are willing to serve, the lots to be cast under the supervision of the remaining qualified
26 Councilmembers.

27 "SUBCHAPTER B. CONDUCT OF CITY ELECTIONS.

28 "Section 2.21. **Regular City elections.** Regular City elections shall be held in each
29 odd-numbered year in accordance with the uniform elections laws of North Carolina.

30 "Section 2.22. **Method and determination of results.** The election shall be by the
31 nonpartisan primary method as provided by G.S. 163-294.

32 "Section 2.23. **Special Elections.** The procedure for calling and conducting special
33 elections shall be as provided by G.S. 163-287.

34 "CHAPTER III. ORGANIZATION AND POWERS OF CITY COUNCIL.

35 "SUBCHAPTER A. CITY COUNCIL: QUALIFICATIONS; VACANCIES;
36 COMPENSATION; OATHS OF OFFICE.

37 "Section 3.01. **Qualifications of Councilmembers and Mayor; vacancies; removal.**

38 (a) No person shall be eligible to be nominated or elected to the City Council, nor to
39 serve thereon, unless the person is a qualified voter and a resident of the City. No person shall
40 be eligible to be nominated or elected to the office of Mayor or to serve as such unless he or she
41 is a qualified voter and resident of the City.

42 (b) In the case of a vacancy in the office of Mayor, the remaining members of the City
43 Council shall select from their own number the Mayor's successor for the unexpired term.

44 (c) If there is a vacancy in the office of Councilmember after election or qualification,
45 or if any Councilmember is unable to discharge the duties of office, the City Council shall
46 choose some person for the unexpired term, or during the member's disability, as the case may
47 be, to act as Councilmember. Councilmembers so selected shall have all the powers and duties
48 of regularly elected Councilmembers.

49 (d) The Council, by vote of a majority of its members, shall have power to remove from
50 office the Mayor or any other Councilmember for malfeasance, corruption, neglect of duty, or
51 other misconduct in office. A removal proceeding shall be initiated by introduction before the

1 City Council of a motion, which shall include a statement of the charges alleged as grounds for
2 the proposed removal. Before the City Council may take action upon such a motion, the person
3 to be proceeded against shall have at least 10 days' written notice of the introduction of the
4 motion, accompanied by a copy of the motion. He or she shall have the right to be heard in
5 person or by counsel in his or her defense. Two readings, each on separate days, shall be
6 required for adoption of the motion, the introduction to constitute the first reading. A vacancy
7 arising pursuant to this subsection shall be filled in the manner provided by subsections (b) and
8 (c) of this section.

9 "Section 3.02. **Compensation of Mayor, Mayor Pro Tem, and Councilmembers.**

10 (a) The Mayor, Mayor Pro Tem, and each Councilmember shall receive as
11 compensation for service to the City an amount fixed by the City Council in the annual budget.

12 (b) In addition to the compensation provided for by subsection (a) of this section, the
13 Mayor, Mayor Pro Tem, and Councilmembers may be reimbursed for actual and necessary
14 travel expenses or other expenses incurred by them in the performance of their official duties.

15 "Section 3.03. **Oaths of office.** All newly elected or appointed Councilmembers and the
16 Mayor before entering upon their duties shall take and subscribe before the City Clerk an oath
17 to perform faithfully the duties of their offices and the oaths of office required by general law.
18 Elected Councilmembers and the Mayor shall meet at the City Hall for the purpose of taking
19 such oath at the organizational meeting following the date of their election. A Councilmember
20 appointed to fill a vacancy shall take the oath at the next City Council meeting following his or
21 her appointment. The Mayor appointed to fill a vacancy shall take the oath at the next City
22 Council meeting following his or her appointment. Any member who is not present at the time
23 and place provided for by this section may take the oaths at any time thereafter. In the absence
24 of the City Clerk, the oaths may be administered by any other person authorized by law to
25 administer oaths of office.

26 "SUBCHAPTER B. CITY COUNCIL: ORGANIZATION AND PROCEDURE.

27 "Section 3.21. **Organizational meeting; Mayor Pro Tem.** The organizational meeting of
28 each City Council shall be held in accordance with G.S. 160A-68. The City Council shall elect,
29 by the choice of its members, a Mayor Pro Tem who shall hold office as such for a term of two
30 years and until a successor is selected and qualified. The organization of the City Council shall
31 take place notwithstanding the absence, death, refusal to serve, or nonelection of one or more
32 members, provided that at least three of the persons entitled to be members are present and, if
33 necessary, take oath.

34 "Section 3.22. **Regular and special meetings; emergency meetings.** Except where
35 otherwise specifically provided by this Charter, the City Council shall have authority to
36 determine the time and place of City Council meetings within or outside Alamance County, to
37 make such provisions as it may deem wise relative to regular, special, emergency, adjourned,
38 and continued meetings, to adopt rules of procedure, and generally to regulate the time, place,
39 manner, and method of the exercise of its powers.

40 "Section 3.23. **Quorum; votes.**

41 (a) A majority of the members of the City Council shall constitute a quorum to do
42 business, but a lesser number may adjourn from time to time and compel the attendance of
43 absent members by ordering them taken into custody.

44 (b) No member shall be excused from voting except upon matters involving the
45 consideration of the member's own official conduct or involving his or her financial interest. In
46 all other cases, a failure to vote by a member who is present or who, having been present, has
47 withdrawn from the meeting without being excused, shall be deemed an affirmative vote and
48 shall be so recorded. A member who has withdrawn from a meeting without being excused
49 shall be counted as present for purposes of determining whether or not a quorum is present.

50 "SUBCHAPTER C. CITY COUNCIL: POWERS AND DUTIES.

51 "Section 3.41. **General powers of City Council.**

1 (a) The government of the City and the general management of the City shall be vested
2 in the City Council, except that the City Manager shall have the powers hereinafter specified
3 and provided by general law.

4 (b) In addition to other powers conferred upon it by law, the City Council may adopt
5 and provide for the execution of such ordinances, rules, and regulations, not inconsistent with
6 this Charter, as may be necessary or appropriate to protect health, life, or property, or to
7 preserve or promote the comfort, convenience, security, good order, better government, or
8 general welfare of the City or its inhabitants; may enforce the same by imposing penalties on
9 such as violate them; and may compel the performance of the duties imposed upon others by
10 suitable penalties.

11 "SUBCHAPTER D. CITY COUNCIL: ORDINANCE PROCEDURE.

12 "Section 3.61. **Applicable general laws.** Except as otherwise herein provided, the
13 adoption, amendment, repeal, pleading, and proving of ordinances shall be governed by
14 provisions of general law applying to cities.

15 "Section 3.62. **Adoption of ordinances and resolutions.** The affirmative vote of a
16 majority of the members of the City Council shall be necessary to adopt any ordinance or
17 resolution. Notwithstanding the provisions of G.S. 160A-75, an ordinance may be finally
18 passed on the date on which it was introduced by vote of a majority of the members of the
19 Council.

20 "Section 3.63. **Code or compilation of ordinances; proving of ordinances.**

21 (a) The City Council may adopt and provide for the issuance and distribution of a
22 codification or compilation of the City ordinances. Any such code or compilation may consist
23 of two separate parts, the general ordinances and the technical ordinances. The technical
24 ordinances may be published in sections and may include ordinances regarding the construction
25 of buildings; the installation of plumbing, electric wiring, gas, or oil appliances or equipment,
26 and the use of the public sewage system; the zoning ordinance; the privilege licenses tax
27 ordinance; and other technical ordinances designated as such by the Council. The City Council
28 may provide for the omission from the code or compilation of designated classes of ordinances
29 which, in its judgment, need not be included because of their limited interest or transitory
30 nature.

31 (b) Any of the following shall be admitted in evidence in all courts and shall have the
32 same force and effect as would an original ordinance:

- 33 (1) An official code or compilation of ordinances which (i) sets forth the
34 ordinances in question; (ii) is reproduced by the process of printing, photo
35 duplication, or similar process; (iii) is issued as a securely bound book or
36 books with periodic, separately bound supplements; and (iv) is certified by
37 the City Clerk, both as to the original volume or volumes and the
38 supplements, as having been adopted by the City Council.
- 39 (2) An official code or compilation of ordinances which meets the requirements
40 of items (i) and (ii) of subdivision (1) of this subsection but which is issued
41 as a loose-leaf book or books and is certified by the Clerk as having been
42 prepared and maintained pursuant to action by the City Council.
- 43 (3) A photographed, typed, or other copy of an ordinance, as set out in the
44 minute books of the City Councilor, as set out in an official code or
45 compilation of ordinances, certified by the City Clerk as a true copy.

46 The burden of pleading and proving the existence of any modification or repeal of an
47 ordinance, a copy of which has been duly pleaded or submitted in evidence, shall be upon the
48 party asserting the modification or repeal.

49 (c) The official copy of the Burlington Code, or compilation, of ordinances, whether the
50 code or compilation is issued in bound or loose-leaf form, shall be kept in the Office of the City
51 Clerk. It shall be the duty of the City Clerk to insert at the appropriate places in any loose-leaf

1 code or compilation all amending or supplementing ordinances and to extract from the code or
2 compilation all provisions which, from time to time, may be repealed by the City Council.

3 "Section 3.64. **Codification of certain zoning, traffic, and related ordinances by**
4 **appropriate entries upon official map books.**

5 (a) The City Council may provide that any one or more classes of ordinances
6 concerning the matters enumerated in subsections (b) and (c) of this section shall be codified by
7 appropriate entries upon official map books to be retained permanently in the Office of the City
8 Clerk. Such entries shall be made by or under the direction of some official designated by the
9 Council. In conjunction with the introduction of every proposed ordinance concerning any of
10 these matters, a map of the affected area shall be presented to the Council, but the failure to
11 present a map shall not affect the validity of the ordinance.

12 (b) The ordinances referred to in subsection (a) of this section include all ordinances
13 establishing or amending boundaries of any zoning district under zoning regulations.

14 (c) The ordinances referred to in subsection (a) of this section also include all
15 ordinances:

16 (1) Designating the location of official traffic control devices;

17 (2) Designating areas or zones where restrictions, prohibitions, or other controls
18 are applied with respect to parking, loading, bus stops, and taxicab stands;

19 (3) Establishing speed limits;

20 (4) Designating the location of through streets, stop intersections, yield
21 right-of-way intersections, waiting lanes, one-way streets, and truck traffic
22 routes; and

23 (5) Establishing restrictions, prohibitions, or other controls upon vehicle turns at
24 designated locations.

25 (d) Photographic copies of any part of the official map books, certified by the City
26 Clerk, shall be admitted in evidence in all courts and shall have the same effect as would the
27 original map book.

28 "SUBCHAPTER E. MAYOR.

29 "Section 3.81. **Powers and duties of Mayor.**

30 (a) The powers and duties of the Mayor shall be as conferred upon him or her by this
31 Charter or general law, together with any other powers and duties conferred by the City
32 Council pursuant to law.

33 (b) The Mayor shall preside at all meetings of the City Council and shall have the right
34 to vote upon all questions but shall have no additional vote in case of a tie and no veto. The
35 Mayor shall be considered a member of the City Council for all purposes. The Mayor shall be
36 recognized as the official head of the City by the courts for the purpose of serving civil process
37 and by the public for all ceremonial purposes. The Mayor shall have the power to administer
38 oaths.

39 "Section 3.82. **Mayor Pro Tem.** During the disability of the Mayor or the Mayor's absence
40 from the City, the functions of the office of Mayor shall devolve upon the Mayor Pro Tem. The
41 Mayor Pro Tem shall preside at all City Council meetings in the absence of the Mayor.

42 "CHAPTER IV. ADMINISTRATIVE OFFICES; POWERS AND PROCEDURE.

43 "SUBCHAPTER A. CREATION AND FUNCTIONS OF DEPARTMENTS, OFFICES, AND
44 OTHER AGENCIES IN GENERAL.

45 "Section 4.01. **Offices, positions, departments, and other agencies continued by**
46 **Charter or created by Council.**

47 (a) The following administrative offices and positions, are hereby provided for by this
48 Charter: City Manager, City Clerk, Finance Director, City Attorney, Chief of Police, and Fire
49 Chief.

50 (b) The City Council may create, change, abolish, and consolidate boards and
51 commissions whose members it appoints.

1 (c) The City Manager may create new positions or departments or assign additional
2 functions to offices, positions, or departments as provided by general law.

3 "SUBCHAPTER B. CITY MANAGER.

4 "Section 4.21. **City Manager: Appointment, qualifications, term, compensation, and**
5 **oath.**

6 (a) The City Council shall appoint a City Manager who shall be the administrative head
7 of the City government and shall be responsible for the administration of all City departments.
8 The Manager shall be appointed with regard to merit only and need not be a resident of the
9 City.

10 (b) The City Manager shall hold office at the pleasure of the City Council and shall
11 receive such compensation as the City Council may fix by ordinance.

12 "Section 4.22. **City Manager: Powers and duties.** The City Manager shall (i) be the
13 administrative head of the City government and, as such, shall be responsible for the
14 administration of all City offices, positions, and departments created by or under this Charter
15 and general law; (ii) ensure that within the jurisdiction of the City, the laws of the State and the
16 ordinances, resolutions, and regulations of the City Council are faithfully executed; (iii) attend
17 all meetings of the Council and recommend for adoption such measures as he or she shall deem
18 expedient; and (iv) make reports to the Council, from time to time, upon the affairs of the City
19 and keep the City Council fully advised of the City's financial condition and its future financial
20 needs.

21 "SUBCHAPTER C. PERSONNEL.

22 "ARTICLE 1. APPOINTMENTS AND REMOVALS.

23 "Section 4.61. **Appointment, removal, and supervision of department heads and**
24 **employees by City Manager.**

25 (a) The City Manager, except as otherwise provided in this Charter, shall be responsible
26 for the appointment, suspension, and removal of heads of City departments and City
27 employees.

28 (b) Except where expressly authorized by this Charter, neither the City Council nor any
29 of its members shall take any part in the appointment or removal of department heads, officers,
30 or employees who are subject to appointment by the City Manager. Except for the purpose of
31 inquiry or investigation, the City Council and its members shall deal with the department heads,
32 officers, and employees through the City Manager, and neither the City Council nor any of its
33 members shall give orders to any subordinate of the City Manager, either publicly or privately.

34 (c) Subject to the provisions of this Charter, the department heads, officers, and
35 employees subject to appointment by the City Manager shall perform such duties as may be
36 required of them by the Manager under general regulations of the City Council.

37 "Section 4.62. **Appointment and removal of members of boards and commissions.**
38 Except as otherwise provided by this Charter, and notwithstanding any other provision of law,
39 the City Council shall appoint and may suspend and remove the following:

- 40 (1) All members of boards and commissions which are created pursuant to this
41 Charter, unless the City Council provides to the contrary;
- 42 (2) All members of boards and commissions who are subject to appointment by
43 the City Council at the time of adoption of this Charter, unless the City
44 Council provides to the contrary; and
- 45 (3) All members of any City board or commission created pursuant to any law
46 enacted after the adoption of this Charter, unless the law provides to the
47 contrary.

48 "Section 4.63. **Absence or disability.**

49 (a) The City Manager may (i) designate a deputy or deputies to perform the functions of
50 any City officer or department head subject to appointment by the City Manager whenever the
51 officer or department head is absent from the City, sick, or otherwise unable to act and (ii) from

1 time to time designate deputies to perform the functions of the officers or department heads
2 during particular absences or disabilities.

3 (b) The City Council may exercise the powers set forth in subsection (a) of this section
4 with respect to any official subject to appointment by it.

5 "ARTICLE 2. COMPENSATION; PERSONNEL POLICIES.

6 "Section 4.71. **Classification and compensation of employees and officers.** The City
7 Manager shall be responsible for the preparation of position classifications and pay plans which
8 shall be submitted to the City Council for approval. The plans may apply to any or all
9 employees of the City and any of its agencies and offices. Salaries of employees shall be fixed
10 by the City Manager within salary ranges approved by the City Council.

11 "Section 4.72. **Personnel policies.** The City Council may adopt ordinances and policies,
12 consistent with applicable laws (i) concerning annual leave, sick leave, hours of employment,
13 and holidays and (ii) concerning other personnel policies, including policies relating to working
14 conditions. The ordinances may apply to any or all employees of the City and any of its
15 agencies and offices.

16 "SUBCHAPTER D. FINANCES AND FISCAL MATTERS.

17 "ARTICLE 1. TAXATION.

18 "Section 4.111. **General authority to levy and collect taxes.** To raise revenue for
19 defraying expenses incident to the proper government of the City, the City Council may
20 annually levy and collect (i) a tax on real and personal property and on all other property
21 subject to taxation; (ii) a tax on all businesses, trades, professions, avocations, privileges, and
22 franchises carried on or enjoyed within the City; and (iii) any other taxes permitted by general
23 law.

24 "Section 4.112. **Levy, collection, and payment of property taxes.**

25 (a) Except as otherwise herein provided, property taxes shall be imposed and collected
26 in the manner provided by general law.

27 (b) Property taxes shall become due and payable on the date provided by general law.
28 Interest shall be charged for late payment, and discounts may be allowed for prepayment of
29 taxes in the amounts and during the periods covered by general law.

30 "Section 4.113. **Additional remedies for collection of privilege license taxes.** In addition
31 to any other civil or criminal remedy available to enforce the collection of privilege license
32 taxes, the City may employ the remedies of levy upon personal property, attachment, and
33 garnishment, subject to the limitations provided in general law.

34 "ARTICLE 2. BORROWING.

35 "Section 4.121. **Borrowing authority and procedures.** The City shall be governed by
36 applicable general laws concerning borrowing authority and procedures.

37 "ARTICLE 3. BUDGETING, ACCOUNTING, FISCAL AFFAIRS.

38 "Section 4.131. **Application of Local Government Budget and Fiscal Control Act.**
39 Subject to the provisions of this Charter, all of the provisions of the Local Government Budget
40 and Fiscal Control Act, Article 3 of Chapter 159 of the General Statutes, apply to the City.

41 "Section 4.132. **Reserve funds.** The City may establish reserve funds as provided by
42 general law.

43 "Section 4.133. **Investment of surplus funds.** The City may invest surplus funds as
44 provided by general law.

45 "SUBCHAPTER E. PROCUREMENT AND PROPERTY MANAGEMENT.

46 "ARTICLE 1. CONTRACTING, PURCHASING, AND PROPERTY MANAGEMENT
47 PROCEDURES.

48 "Section 4.151. **Contracting procedures; authentication of documents.**

49 (a) Except where otherwise provided by law or where a contract is made by the City
50 Council, all contracts, licenses, and other public documents of the City shall be signed by the
51 City Manager or some person designated by the City Manager and shall be authenticated by the

1 City Clerk. The City Manager shall file with the City Council a written memorandum of any
2 designation by him or her of a person to sign documents, and the memorandum shall be
3 recorded in the minutes of the Council.

4 (b) In all respects not provided for by this Charter, formal requirements concerning the
5 making and execution of contracts by the City shall be governed by general law.

6 "ARTICLE 2. SALE AND DISPOSITION OF PROPERTY.

7 "Section 4.161. **Sale of surplus real property.**

8 (a) Whenever the City owns any real estate which is not required for public purposes,
9 the real estate may be sold by the City in the manner provided by this section.

10 (b) When an offer is received for any real property owned by the City, the City Council
11 may cause notice to be published in any newspaper of general circulation published in the City,
12 or if there is no newspaper, then in any newspaper of general circulation published in Alamance
13 County, once each week for two successive weeks. The notice shall set forth a general
14 description of the property, the amount offered therefor, and a statement that unless the offer is
15 raised within 15 days following the first publication, by a bid exceeding the original offer by
16 such percentage as the City Council may fix and set forth in the statement, not exceeding ten
17 percent (10%) on the first one thousand dollars (\$1,000) and five percent (5%) thereafter, the
18 City Council will, in its discretion, proceed to authorize and complete the sale. Upon the
19 expiration of 15 days following first publication of the notice, if no increased bid has been
20 made as herein set forth, the City Council may, in its discretion, authorize the sale and order
21 execution of an appropriate conveyance therefor upon payment of the purchase price. If an
22 increased bid is submitted in the manner herein provided, the City Council may advertise the
23 bid in the same manner as the original bid. The City Council may, in its discretion, in
24 connection with any such bid or increased bid, require that the bidder give security or make a
25 deposit, in such amount as the City Council may fix, to be forfeited upon failure of the bidder,
26 after acceptance of his or her bid, to pay the purchase price and take delivery of the deed.

27 (c) The provisions of this section shall be construed as in addition to all other
28 provisions of law authorizing or prescribing the method of sale of real property owned by the
29 City.

30 "Section 4.162. **Conveyances with covenants of warranty.**

31 (a) The City Council is hereby authorized to execute and deliver conveyances to any
32 property, whether acquired by tax or assessment foreclosure or otherwise, with full covenants
33 of warranty whenever in its discretion it is to the best interest of the City to convey by warranty
34 deed.

35 (b) Members of the City Council are hereby relieved of any personal or individual
36 liability by reason of the execution of any such conveyances with covenants of warranty.

37 "Section 4.163. **Quitclaims of City property.** The City may quitclaim any rights it may
38 have in property not needed for public purposes upon report by the City Manager and adoption
39 of a resolution by the City Council, both finding that the property is not needed for public
40 purposes and that the interest of the City has no readily ascertainable monetary value.

41 "Section 4.164. **Conveyance to abutting owners of small parcels of land cut off from**
42 **City-owned tracts by street improvements.** Whenever in opening, extending, or widening
43 any street, avenue, alley, or public place of the City a small parcel or tract of land is cut off or
44 separated by the work from a larger tract or boundary of land owned by the City, the City
45 Council may authorize the City Manager to execute and deliver in the name of the City a deed
46 conveying the cutoff or separated parcel or tract of land to an abutting or adjoining property
47 owner or owners in exchange for rights-of-way for the street, avenue, alley, or public place or
48 in settlement of any alleged damage sustained by the abutting or adjoining property owner. All
49 deeds and conveyances heretofore or hereafter so executed and delivered shall convey all title
50 and interest the City has in the property, notwithstanding no public sale after advertisement
51 was, or is hereafter, made.

1 "Section 4.165. **Sale of personal property of less than two thousand five hundred**
2 **dollars (\$2,500) value.** Notwithstanding any other provision of law, the City Council may sell
3 or exchange without advertisement and at either public or private sale any personal property not
4 exceeding two thousand five hundred dollars (\$2,500) in value at the time of sale.

5 "SUBCHAPTER F. OTHER DEPARTMENTS, OFFICES, AND AGENCIES.

6 "ARTICLE 1. CITY ATTORNEY.

7 "Section 4.171. **City Attorney.** As provided by general law, the City Council shall appoint
8 a City Attorney to serve at its pleasure and to be its legal advisor.

9 "ARTICLE 2. CITY CLERK AND FINANCE DIRECTOR.

10 "Section 4.181. **City Clerk and Finance Director.**

11 (a) The City Manager shall appoint a City Clerk and finance director.

12 (b) The City Clerk shall do all of the following:

13 (1) Keep a journal of City Council proceedings.

14 (2) Record in a book kept for the purpose all ordinances and resolutions.

15 (3) Be the custodian of all City records.

16 (4) Perform such other duties as prescribed by law or this Charter or required by
17 the City Council which are not inconsistent with general law.

18 (c) The Finance Director shall perform the duties of finance officer as set forth in the
19 Local Government Budget and Fiscal Control Act, Article 3 of Chapter 159 of the General
20 Statutes, or as may be set forth elsewhere in general law, and as required by the City Manager
21 or City Council which are not inconsistent with general law.

22 "ARTICLE 3. POLICE.

23 "Section 4.191. **Powers and duties of Chief of Police and members of police force.** The
24 Chief of Police, each member of the police force, and any other designated officers shall have
25 the powers and duties as provided in Article 13 of Chapter 160A of the General Statutes and
26 otherwise provided for by general law.

27 "CHAPTER V. REGULATORY AND PLANNING FUNCTIONS.

28 "SUBCHAPTER A. MOTOR VEHICLES AND TRAFFIC.

29 "Section 5.01. **Location of traffic control devices.**

30 (a) The Traffic Commission shall recommend to the City Council the location or
31 removal of any and all official traffic control devices in the City.

32 (1) If the recommendation is for installation of such a device at a particular
33 location, the recommendation shall state why its installation is necessary in
34 order to control traffic congestion in the interest of public safety.

35 (2) If the device is to be moved or removed from a particular location, the
36 recommendation shall state why the device is no longer required at such
37 location for the control of traffic congestion in the interest of public safety.

38 An "official traffic control device," as used in this section, is a sign, signal, marking, or
39 device, including a parking meter, which is intended to regulate vehicular or pedestrian traffic.

40 (b) Upon adoption by the City Council of any recommendation from the Traffic
41 Commission pursuant to subsection (a) of this section, the action shall be recorded in the
42 minutes of the Council. The installation, moving, or removal of the official traffic control
43 device shall then be carried out by City staff.

44 (c) For purposes of enforcement, the installation, moving, or removing of a traffic
45 control device pursuant to subsection (a) of this section shall take effect immediately when the
46 device is installed, moved, or removed. The location of a traffic control device may be proved
47 by the testimony of the official who installed or moved it.

48 (d) The installation, moving, or removing of a traffic control device pursuant to the
49 provisions of this section shall have the force and effect of an ordinance, and the failure to obey
50 any such device shall be punishable as a violation of an ordinance.

1 (e) Nothing in G.S. 20-175 shall prohibit the City Council from adopting ordinances
2 placing additional restrictions or prohibitions on persons standing on any street, highway, or
3 right-of-way, excluding sidewalks, while soliciting or attempting to solicit any employment,
4 business, or contributions from the driver or occupants of any motor vehicle. The City may not
5 adopt ordinances placing restrictions or prohibitions on the activities of licensees, employees,
6 or contractors of the North Carolina Department of Transportation.

7 "Section 5.02. **Obstruction of alleys.** If, in the opinion of the City Council, a fire hazard is
8 created by the obstruction of private alleys, the City Council may adopt regulations governing
9 the obstruction of private alleys, either by reason of the parking of motor vehicles or otherwise.

10 "Section 5.03. **Regulation of ambulances and wreckers.** The City Council may establish
11 regulations governing the operation of ambulances, wreckers, and other motor vehicles used in
12 connection with emergencies, disasters, or accidents.

13 "SUBCHAPTER B. OCCUPATIONAL AND BUSINESS LICENSING AND REGULATION.

14 "Section 5.21. **General powers of City Council to license occupations and businesses.**
15 The City Council is authorized to license occupations, businesses, trades, or forms of
16 amusement or entertainment as provided by general law.

17 "Section 5.22. **Liability insurance or surety bond to be furnished by demolition**
18 **contractors.**

19 (a) The City Council may require every demolition contractor to furnish and keep in
20 effect for each building demolition project in the City he or she may undertake, or as a
21 condition of engaging in the business of building demolition in the City, a policy of insurance
22 or surety bond with sureties, licensed to do business in North Carolina, whose solvency shall at
23 all times be subject to the approval of the Council. The policy or bond shall be in such amount
24 or amounts as may be fixed by the Council and shall be conditioned upon the contractor
25 responding in damages for any liability incurred on account of any injury to persons or
26 damages to property resulting from the prosecution of the demolition project. The policy or
27 bond, if required, shall be filed with the City Council as a condition precedent to conducting
28 any building demolition project in the City.

29 (b) As used in this section, the term "demolition contractor" means a person, firm, or
30 corporation who undertakes on his or her account or for another, whether for an agreed price or
31 for cost plus a fixed fee or otherwise, to raze, dismantle, or demolish a building.

32 "SUBCHAPTER C. PLANNING ZONING; BUILDING REGULATIONS AND RELATED
33 MEASURES.

34 "ARTICLE 1. SUBDIVISION CONTROLS.

35 "Section 5.41. **Authority to require installation of certain improvements prior to**
36 **approval of plats.**

37 (a) In connection with subdivision or platting controls, the City Council may require the
38 improvement and grading of streets and the construction and installation of street pavements,
39 curbs, gutters, sidewalks, and water, sewer, surface water drainage, and other utility mains as a
40 condition precedent to the approval of a plat. The requirements may provide for tentative
41 approval of the plat previous to the improvement and installation, but any tentative approval
42 shall not be entered on the plat. The requirements may provide that, in lieu of completion of the
43 work and installations prior to final approval of the plat, the City Council may accept a bond
44 from a company licensed to do business in North Carolina, in an amount and with surety and
45 condition satisfactory to it, providing for and securing to the City the actual construction and
46 installation of the improvements and utilities within a period specified by the City Council and
47 expressed in the bond. The City is empowered to enforce the bond by all appropriate legal and
48 equitable remedies. Requirements adopted under this subsection may be adopted throughout the
49 area over which the City is authorized by law to exercise platting or subdivision controls.

50 (b) The requirements may provide, in lieu of the completion prior to the final approval
51 of the plat of the work and installation on land within the corporate limits of the City, for an

1 assessment under this Charter, Article 10 of Chapter 160A of the General Statutes, or other
2 general or local law whereby the City may do the work and make the installations at the cost to
3 the owners of the property within the subdivision using any of the bases and methods
4 prescribed by law.

5 "Section 5.42. **Authority to require reservation of recreation areas and school sites.**

6 In connection with subdivision or platting controls, the City Council may, as provided by
7 G.S. 160A-372, require the reservation of recreation areas and school sites as a condition
8 precedent to the approval of a plat. The reservation shall be for a period of no longer than two
9 years, subject to future acquisition by purchase or condemnation by a governmental unit or
10 agency.

11 "Section 5.43. **Territorial extent of powers.** The authority conferred by Section 5.41 and
12 Section 5.42 of this Charter may be exercised throughout the area within which the City
13 Council is now or hereafter empowered to regulate the platting and recording of any
14 subdivision of land.

15 "ARTICLE 2. BUILDING REGULATIONS.

16 "Section 5.51. **Power to destroy property to stop fires.** The Chief of the Fire Department
17 may order the blowing up, tearing down, or other destruction of any building when it is deemed
18 necessary to stop the progress of a fire. No person shall be held liable, civilly or criminally, for
19 acting in obedience to orders thus given, nor shall the Fire Chief be held liable, civilly or
20 criminally, for the giving of such orders or for damages to property ordered destroyed.

21 "ARTICLE 2A. HOUSING COMMISSION.

22 "Section 5.52. **Housing commission.** The City Council may provide for the creation and
23 organization of a housing commission to which appeals may be taken from the decision of the
24 building inspector upon any provision of the Housing Code of the City.

25 "ARTICLE 3. STREET IMPROVEMENTS.

26 "Section 5.61. **Comprehensive transportation plan.** Transportation planning, including
27 street improvements for the City, shall be carried out by and through the Burlington-Graham
28 Metropolitan Planning Organization (MPO) established pursuant to 23 U.S.C. § 23.
29 Periodically, the MPO shall adopt and update a comprehensive transportation plan for the
30 metropolitan area. The City Council shall adopt the portion of the comprehensive transportation
31 plan pertaining to the City and its planning jurisdiction and may, from time to time, propose
32 revisions for consideration by the MPO.

33 "Section 5.62. **Subdivision Streets.** Dedication, extension, and construction of new streets
34 in subdivisions shall be carried out as provided in the City's subdivision ordinance.

35 "Section 5.63. **Transportation Corridor Plan.** In the event of a particular roadway
36 improvement project, the City Council shall adopt a transportation corridor official map
37 pursuant to Article 2E of Chapter 136 of the General Statutes. A certified copy of the map shall
38 be filed with the Alamance County Register of Deeds. Advance acquisition of property,
39 issuance of building permits, and approval of subdivisions within the officially designated
40 corridor shall be as provided for in Article 2E of Chapter 136 of the General Statutes.

41 "SUBCHAPTER D. MAINTENANCE OF RAILROAD CROSSINGS.

42 "Section 5.81. **Railroad crossings.** As authorized by general law, the City shall have the
43 power to require any railroad or railway company to keep in good repair any grade crossings
44 over its tracks, and to construct and keep in repair from curb to curb railroad bridges and
45 crossings over all ditches running under any grade crossings so that the tracks, turnouts, and
46 switches shall interfere, as little as may be reasonable, with travel over the streets at the grade
47 crossing, and to regulate the grade of all of the streets of the City as they may hereafter be or
48 are now established, except as herein otherwise provided.

49 "CHAPTER VI. CITY SERVICES AND FACILITIES.

50 "SUBCHAPTER A. ESTABLISHMENT AND MAINTENANCE OF SERVICES AND
51 FACILITIES.

1 "ARTICLE 1. LOCAL DEVELOPMENT.

2 "Section 6.01. **Authority to levy tax for local development.** Nothing in this Charter shall
3 affect the power of the City to levy taxes for local development purposes under Article 1 of
4 Chapter 158 of the General Statutes.

5 "SUBCHAPTER B. EMINENT DOMAIN.

6 "Section 6.41. **Authority to acquire needed property.** The City shall have authority to
7 purchase or acquire by condemnation a property right for any lawful public use or purpose. The
8 procedure in all such condemnation proceedings shall conform to the procedure provided in
9 Article 3 of Chapter 40A of the General Statutes.

10 "SUBCHAPTER C. ASSESSMENTS FOR LOCAL IMPROVEMENTS.

11 "Section 6.61. **Authority to make local improvements.** The City Council shall have the
12 authority to make local improvements as described in this Charter and to assess the cost against
13 benefited property. The procedure set forth in this subchapter shall not be exclusive but shall be
14 in addition to any other procedure provided by general or local law.

15 "Section 6.62. **Separate proceedings not required.** One or more local improvements may
16 be made in a single proceeding, and assessments for one or more local improvements may be
17 combined.

18 "Section 6.63. **Definitions.** Certain words and phrases will be used with the following
19 meaning with reference to local improvements, unless some other meaning is plainly intended:

20 (a) A "street" is the entire width between property lines of every way or place, of
21 whatever nature, when any part thereof is dedicated or open to the use of the public as a matter
22 of right for the purpose of vehicular or pedestrian traffic.

23 (b) A "sidewalk" is the part of a street which is used, or to be used, for pedestrian
24 traffic.

25 (c) A "storm sewer" is a conduit above or below ground for the passage of storm water,
26 and may include a pumping station and outlet where deemed necessary, and may also include
27 the building of culverts over or the enclosing of streams where needed to carry off storm water.

28 (d) A "sanitary sewer" is an underground conduit for the passage of sewage and may
29 include a pumping station and outlet.

30 (e) A "water main" is a pipe for the passage of City water for public hydrants and
31 private and public use and consumption.

32 (f) A "lateral" is a pipe connecting a storm or sanitary sewer or water main with the line
33 of adjacent property or the curb line, being either a sewer lateral or water lateral, but does not
34 include a building connection, that is, a pipe extending from a lateral at the property line or
35 curb line to the house or plumbing fixture to be served.

36 (g) A "roadway" is the part of a street which is used, or to be used, for vehicular traffic.

37 (h) The word "sewer" includes both sanitary and storm sewers, unless a contrary
38 intention is shown.

39 "Section 6.64. **Improvements described.** The City Council shall have authority to make
40 the following local improvements:

41 (a) Roadway paving improvements, which include the grading, regrading, paving,
42 repaving, and widening of roadways, or the improvement thereof with any treatment designed
43 to provide an improved wearing surface, with necessary drainage, sewer inlets, manholes, and
44 catch basins, and the construction or reconstruction of retaining walls made necessary by any
45 change of grade incident to the improvement and, in any case where the improvement is made
46 upon petition, if the petition so requests or, in any case where the improvement is made without
47 petition, if the City Council so directs, it may include the construction or reconstruction of
48 curbs, gutters, drains, and sidewalks.

49 (b) Water main improvements, which include the laying or construction of water mains,
50 the relaying where necessary of parts of paved roadways and sidewalks torn up or damaged by
51 the laying or construction of such mains, and, in any case where the improvement is made upon

1 petition and the petition so requests, or in any case where the improvement is made without
2 petition and the City Council so directs, the laying of water laterals.

3 (c) Sanitary sewer improvements, which include the laying or construction of sanitary
4 sewers, the relaying, where necessary, of parts of roadways and sidewalks torn up or damaged
5 by the laying or construction of the sewers and, in any case where the improvement is made
6 upon petition and the petition so requests or, in any case where the improvement is made
7 without petition and the City Council so directs, the laying of sanitary sewer laterals.

8 (d) Storm sewer improvements, which include the laying or construction of storm
9 sewers, the relaying, where necessary, of parts of paved roadways and sidewalks torn up or
10 damaged by the laying or construction of the sewers, and, in any case where the improvement
11 is made upon petition and the petition so requests or, in any case where the improvement is
12 made without petition and the City Council so directs, the laying of storm sewer laterals.

13 (e) Sidewalk improvements, which include the grading, regrading, construction,
14 reconstruction, and repair of paved or other improved sidewalks, the construction or
15 reconstruction of retaining walls made necessary by and incident to the improvements, and, in
16 any case where the improvement is made upon petition, if the petition so requests or, in any
17 case where the improvement is made without petition if the City Council so directs, it may
18 include the construction or reconstruction of curbs, gutters, and drains, and the construction or
19 reconstruction of all the portions of driveways as in the judgment of the City Council ought to
20 be laid in the street area.

21 (f) Grassplot improvements, which include the grading and planting of grassplots in a
22 street.

23 "Section 6.65. **Bases for making assessments.** Assessments may be made on any of the
24 bases authorized in G.S. 160A-218.

25 "Section. 6.66. **Optional cost sharing.** Without regard to the limitations stated in Article
26 10 of Chapter 160A of the General Statutes or in any other provision of law, the City may
27 assume such proportion of the total cost of local improvements, including street improvements,
28 sidewalk improvements, curb and gutter, and water and sewer improvements, or any one or
29 more of them, as the City may, from time to time, deem appropriate.

30 "Section 6.67. **Water and sewer mains between streets.** Whenever the City Council finds
31 it in the public interest, and it will be more economical and the interest of the property owners
32 will best be served by constructing either water or sanitary sewer mains, or both, between
33 streets rather than in a street, the petition may provide therefor or, in the event the water and
34 sanitary sewer mains may be constructed in a street without petition, they may be constructed
35 between streets without petition. The cost of the construction of the water or sewer mains and
36 laterals shall be assessed according to the street frontage in the same manner and to the same
37 extent that it would be assessed if the improvements were constructed in a street. However, the
38 City shall provide the rights-of-way for construction and maintenance of the mains at its own
39 expense without assessing the cost thereof.

40 "Section 6.68. **Inclusion of more than one improvement in single proceeding.**

41 (a) Any proceeding may include one or more local improvements on one or more
42 streets, but all improvements included in one procedure shall be practically uniform in cost and
43 kind. A petition may include improvements on only one side of a street.

44 (b) The petition may provide for making any one or more local improvements in or on a
45 street or streets and for the assessment of the cost thereof, except the City's portion, wholly
46 against the property abutting one side of the street or streets or otherwise against the abutting
47 property as may be designated in the petition in any of the following cases: (i) where there is
48 park land or unimproved land abutting one side, or a part of one side, of a street; or (ii) where
49 the land abutting one side, or a part of one side of a street, is of such a nature or is devoted to
50 such a purpose that a special assessment against it cannot be made or, if made, would probably

1 exceed the value of the land assessed; or (iii) where the owners of all the property to be
2 assessed agree thereto.

3 **"Section 6.69. The petition; certificate of sufficiency.**

4 (a) Except as otherwise provided in subsection (b) of this section, the petition for any
5 local improvements shall designate by a general description the improvements proposed and
6 shall request that the proportion of the cost of each of the improvements as may be specified in
7 the petition be specially assessed against the property abutting on the street or streets or part
8 thereof in which or on which the improvements are proposed to be made. The petition shall be
9 filed with the City Clerk.

10 (b)(1) In any case where the improvement is to be made on one side of a street only, the
11 petition shall request that the assessment be made only against the property abutting that side of
12 the street whereon the improvement is to be made.

13 (2) In any case where it is proposed to assess the cost of any local improvement
14 covering the entire width of a street against the land abutting one side of the street only or
15 against any lands less than all of those abutting the improved portion of the street, the petition
16 shall designate the lands to be assessed.

17 (c) Except as otherwise provided in subsection (d) of this section, the petition shall be
18 signed by at least a majority in number of the owners, which majority must own at least a
19 majority of all the lineal feet of frontage of the lands abutting the street or streets or part of a
20 street or streets proposed to be improved, excluding street intersections.

21 (d)(1) A petition for the making of local improvements on one side of a street only need be
22 signed only by a majority in number of the owners of land abutting the side of the street
23 whereon the improvement is to be made, which majority must own at least a majority of all the
24 lineal feet of frontage of the lands abutting the side of the street, excluding street intersections.

25 (2) Any petition for the making of any improvements covering the entire width of a
26 street, and the assessment of the cost thereof against the land abutting one side of the street only
27 or against any lands less than all of those abutting the improved portion of the street, shall be
28 signed by all of the owners of the lands thus proposed to be assessed.

29 (e)(1) For the purpose of the petition, all the owners of undivided interests in any land
30 shall be deemed and treated as one person, and the land shall be sufficiently signed for when
31 the petition is signed by the owner or owners of a majority in amount of the undivided interest.

32 (2) For the purpose of this section, the word "owner" shall be considered to include the
33 owners of any life estate, an estate by entirety, or the estate of inheritance and shall not include
34 mortgages, trustees of a naked trust, trustees under deeds of trust to secure the payment of
35 money, lienholders, or persons having inchoate rights of courtesy or dower.

36 (f) Upon the filing of the petition, the City Clerk shall investigate the sufficiency of the
37 petition, and, if it is found to be sufficient, he or she shall certify the same to the Council.

38 **"Section 6.70. When petition unnecessary.**

39 (a) No petition shall be necessary for the making of any local improvements for which
40 the City bears the entire cost without assessment.

41 (b) If, in the judgment of the City Council, the abutting property to be assessed will be
42 benefited in an amount at least equal to the assessment, no petition for local improvement shall
43 be necessary in the cases set forth in subsections (c) through (g) of this section.

44 (c) Street paving improvements – When, in the judgment of the Council:

45 (1) Any street or part of a street is unsafe; or

46 (2) The improvement of a street or part of a street not more than three blocks in
47 length is necessary to connect streets already paved; or

48 (3) The improvement of a street or part of a street is necessary to connect a
49 paved street, or portion thereof, within the City with a paved highway
50 beyond the City limits; or

1 (4) The improvement of a street or part of a street is necessary to provide a
2 paved approach to a railroad or street grade separation or any bridge; or

3 (5) Any street or part of a street should be widened.

4 (d) Water main improvements – When, in the judgment of the Council, any street or
5 part of a street, or any property within the City, is without a public water supply and can be
6 served, and water service should be provided in the public interest.

7 (e) Sanitary sewer improvements – When, in the judgment of the Council, any street or
8 part of a street, or any property within the City, is without a public sanitary sewer system and
9 can be served, and sanitary sewer service should be provided in the public interest.

10 (f) Storm sewer improvements – When, in the judgment of the Council, any street or
11 part of a street, or any property within the City, is without storm sewer facilities and can be
12 served, and storm sewers should be provided in the public interest.

13 (g) Sidewalk improvements – When, in the judgment of the Council, any street or part
14 of a street is without sidewalks, and sidewalks should be provided in the public interest, or any
15 existing sidewalk is unsafe and should be repaired.

16 "Section 6.71. **Notice of hearing.**

17 (a) Upon the presentation of a sufficient petition for local improvements, or when it is
18 proposed to make without petition any improvements authorized to be made without petition, a
19 notice shall be prepared by the City Attorney which shall contain substantially the following:

20 (1) That a sufficient petition has been filed for the making of the improvements
21 or, if it is proposed to make the improvements without petition, a statement
22 of the reasons proposed for the making thereof;

23 (2) A brief description of the proposed improvements;

24 (3) The proportion of the cost of the improvements to be assessed and the terms
25 of payment;

26 (4) A statement of the time and place of a public hearing on the proposed
27 improvements; and

28 (5) A statement that all objections to the legality of the making of the proposed
29 improvements shall be made in writing, signed in person or by attorney, and
30 filed with the City Clerk at or before the time of the hearing and that any
31 objections not so made will be waived.

32 (b) The notice shall be published one time in a newspaper published in the City which
33 is qualified to carry legal notices, or, if there is no newspaper, the City Clerk shall cause it to be
34 posted in three public places in the City, the date of publication or posting to be not less than
35 five days prior to the date fixed for the hearing. A copy of the notice shall be served upon the
36 owners of the lands subject to assessment for the improvements by certified or registered mail.
37 The certificate of the person designated to mail the notices shall be conclusive in the absence of
38 fraud. The mailing of notices shall be completed not less than five days prior to the date fixed
39 for the hearing. The word "owners," as used herein, has the same meaning as in Section
40 6.69(e)(2) of this Charter.

41 "Section 6.72. **Public hearing.** At the time for the public hearing, or at some subsequent
42 time to which the hearing shall be adjourned, the City Council shall consider objections to the
43 legality of the improvements made in compliance with Section 6.71(a)(5) of this Charter,
44 together with objections to the policy or expediency of the making of the improvements, and
45 the City Council shall thereafter determine whether it will order the making of the
46 improvements. Any objections to the legality of the making of the improvements not made in
47 writing, signed in person or by attorney, and filed with the City Clerk at or before the time or
48 adjourned time of the hearing shall be considered as waived, and, if any objection shall be
49 made and shall not be sustained by the Council, the adoption of the resolution ordering the
50 making of the improvements shall be the final adjudication of the issues presented, unless

1 within 10 days after the adoption of the resolution proper steps shall be taken in a court of
2 competent jurisdiction to secure relief.

3 "Section 6.73. **Resolution ordering improvements; publication.** After the public hearing,
4 if the City Council determines to make the improvements proposed, it shall adopt a resolution
5 which shall contain the following:

- 6 (1) If the improvements are to be made by petition, a finding by the City
7 Council as to the sufficiency of the petition, which finding shall be final and
8 conclusive.
- 9 (2) If the improvements are to be made without petition, a finding by the City
10 Council of such facts as are required in order to authorize improvements
11 without petition.
- 12 (3) A general description of the improvements to be made and the designation of
13 the street or streets or parts thereof where the work is to be done.
- 14 (4) If the improvement directed to be made is the paving of a roadway or part
15 thereof wherein a railroad company has tracks, a direction that the company
16 pave that part of the street occupied by its tracks, the rails of the tracks, and
17 18 inches in width outside the tracks, with the material and in the manner as
18 the governing body may prescribe, and that unless the paving be completed
19 on or before a day specified in the resolution, the governing body will cause
20 the same to be done. Where the railroad company shall occupy the street or
21 streets under a franchise or contract which otherwise provides, the franchise
22 or contract shall not be affected by this section, except insofar as may be
23 consistent with the provisions of the franchise or contract.
- 24 (5) If the improvement directed to be made includes the construction of water
25 mains or sewers and, in order to provide the mains or sewers in the street or
26 streets to be improved, it is necessary to extend them beyond the limits of
27 the street or streets, the resolution shall contain a provision for the necessary
28 extension of the mains or sewers and a further provision that the cost of the
29 extension shall eventually be assessed against the lots or parcels of land
30 abutting the street or streets in which the extensions are made but that
31 assessments shall not be made until such time as the City Council shall
32 thereafter determine by appropriate resolution.
- 33 (6) If the improvement directed to be made is the paving of a roadway or part
34 thereof, or the construction of sidewalks, the resolution may, but need not,
35 contain a direction that the owner of each lot abutting the part of the street to
36 be improved connect his or her lot by means of laterals with water mains,
37 gas or sewer pipes, or any one or more thereof located in the street adjacent
38 to his or her premises in accordance with the requirements governing the
39 laying of laterals, and that unless the owners cause laterals to be laid on or
40 before a date specified in the resolution, the date to be not less than 30 days
41 after the date of the resolution, the City Council will cause the same to be
42 laid.
- 43 (7) A designation of the proportion of the cost of the improvements to be
44 assessed against abutting property and of the number of equal annual
45 installments in which assessments may be paid.

46 "Section 6.74. **Details of construction; contracts for construction.** The City Council
47 shall have power to determine the character and type of construction and of material to be used
48 and to determine any other details of plan or construction necessary to be determined in making
49 any local improvements and to determine whether any work to be done by the City shall be
50 done by contract or by the City. The City Council shall have power also, unless otherwise
51 limited, to determine the number of water, sewer, and gas laterals that shall be laid to any lot on

1 any street to be improved. If the work or any part thereof is to be done by contract, the City
2 Council may let all of the work in one contract, or it may divide it into several contracts and
3 may let contracts separately.

4 "Section 6.75. **Determination as to cost of improvements.** Upon completion of the
5 improvements, the City Council shall ascertain the total cost. In addition to other items of cost,
6 there may be included therein the cost of all necessary legal services, the amount of interest
7 paid during construction, the amount of damages paid or to be paid for injury to property by
8 reason of any change of grade or drainage, including court costs and other expenses incidental
9 to the determination of damages, and the cost of retaining walls, sidewalks, or fences built or
10 altered in lieu of cash payment for property damage, including the cost of moving or altering
11 any building. The determination of the City Council as to the total cost of any improvement
12 shall be conclusive.

13 "Section 6.76. **Preliminary assessment.**

14 (a) Having determined the total cost, the City Council shall make a preliminary
15 assessment. The preliminary assessment shall be advisory only and shall be subject to
16 modification. Except as otherwise provided in subsection (b) of this section, the preliminary
17 assessment shall be as follows:

18 (1) Roadway paving. The total cost of any roadway paving improvement,
19 excluding the cost incurred at street intersections, shall be specially assessed
20 against the lots and parcels of land abutting the street containing the roadway
21 paved, according to the frontages thereon, by an equal rate per foot of
22 frontage except that, where the petition so requested, the cost shall be
23 assessed against the lands on one side of the street only or against the lands
24 as were designated in the petition.

25 (2) Water mains and sewers. The cost of not exceeding an eight-inch water or
26 sanitary sewer main and of not exceeding a 30-inch storm sewer main shall
27 be assessed against the abutting property. The cost shall be assessed against
28 the lots and parcels of land according to their respective frontages thereon by
29 an equal rate per foot of the frontage or upon such other basis as the City
30 Council may determine. If a water or sanitary sewer main in excess of eight
31 inches in size or a storm sewer in excess of 30 inches in size is laid, the
32 excess cost shall be borne by the City. If the resolution ordered the
33 construction of any pumping station, outfall, septic tank, or disposal plant,
34 no part of the cost of the same shall be specially assessed. Nothing contained
35 herein shall be construed to limit the power of the City Council to contract
36 with any property owner or owners for the construction of any pumping
37 station, outfall, septic tank, or disposal plant or for the construction of water
38 mains or storm or sanitary sewers and for the assessment of the cost thereof
39 according to the terms of the contract. The entire cost of each water and
40 sewer lateral shall be specially charged against the particular lot or parcel of
41 land for or in connection with which it was constructed, except that the
42 assessments shall be calculated as if the lateral were laid from the center of
43 the street. The cost of installing storm sewers may, however, be assessed as
44 part of the cost of roadway paving.

45 (3) Sidewalks. The total cost of constructing or reconstructing sidewalks shall
46 be assessed against the lots and parcels of land abutting that side of the street
47 upon which the improvement is made according to their respective frontages
48 thereon by an equal rate per foot of the frontage, the lots within a block
49 being deemed to abut upon a sidewalk although the latter extends beyond the
50 lot to the curb line of an intersecting street. The total cost of constructing

1 portions of driveways within the street area shall be assessed against the lots
2 for which they are constructed.

- 3 (4) Grassplots. The entire cost of grading or otherwise improving or of planting
4 the grassplots in any street or part thereof shall be assessed against the lots
5 and parcels of land abutting the street or part thereof where or whereon the
6 improvements are made by an equal rate per foot front of the frontage;
7 provided, that this subdivision shall be construed to mean that when a
8 grassplot in any street is graded or planted or otherwise improved, the cost
9 thereof shall be assessed against all of the property abutting the street within
10 the block where the grassplot is located.

11 (b) If the petition, or the resolution in those cases where the improvement was ordered
12 made without petition, specified that there should be specially assessed against the abutting
13 property a smaller proportion of the cost of any improvement other than that set forth in
14 subsection (a)(2) of this section, there shall be assessed against abutting property only the
15 proportion of the cost as was specified in the petition or in the resolution. No restriction or
16 denial of access to an abutting street shall affect the levy or collection of any assessment for
17 local improvements.

18 (c) The cost of paving, water, sewer, and sidewalk improvements upon, in, or to any
19 portion of a right-of-way or any property owned by the State of North Carolina or any agency
20 or subdivision thereof shall be assessed against the right-of-way or property and shall be paid
21 by the State, its agency, or subdivision.

22 "Section 6.77. **Corner lot exemptions.** The City Council shall have authority to determine
23 the amount and applicability of assessment exemptions for corner lots and to distinguish
24 between different classifications of property uses. The exemptions for water mains and sanitary
25 sewers shall not exceed 150 feet for residential uses and 100 feet for business uses. If the corner
26 formed by two intersecting streets is rounded into a curve or is foreshortened for the purpose of
27 providing sight distance or for any other purpose of construction, the frontage for assessment
28 purposes shall be calculated to the midpoint of the curve or foreshortened corner.

29 "Section 6.78. **Preliminary assessment roll.** The City Council shall cause to be prepared a
30 preliminary assessment roll on which shall be entered a brief description of each lot or parcel of
31 land assessed the amount assessed against each lot and the name or names of the owner or
32 owners of each lot, as far as the same can be ascertained; provided, that a map of the
33 improvements on which is shown the frontage and location of each affected lot, together with
34 the amount assessed against each lot and the name or names of the owner or owners thereof, as
35 far as the same can be ascertained, shall be a sufficient assessment roll. If the resolution
36 directed the making of more than one improvement, a single preliminary assessment roll for all
37 the improvements authorized by the resolution shall be sufficient, but the cost of each
38 improvement to each lot affected shall be shown separately. After the preliminary assessment
39 roll has been completed, it shall be filed in the Office of the City Clerk, and there shall be
40 published in some newspaper published in the City which is qualified to carry legal notices, or
41 if there is no newspaper, the City Clerk shall cause to be posted in three public places in the
42 City, a notice of the completion of the assessment roll, setting forth a description in general
43 terms of the improvements, the amount of each assessment, and stating the time fixed for the
44 meeting of the City Council for the hearing of objections to the special assessments. The
45 meeting shall not be earlier than five days after the publication or from the date of posting of
46 the notice. Any number of assessment rolls may be included in one notice.

47 "Section 6.79. **Hearing; revision; confirmation; lien.** At the time appointed for that
48 purpose or at some other time to which it may adjourn, the City Council shall hear objections to
49 the preliminary assessment roll of all persons interested who may appear and offer proof in
50 relation thereto. Then or thereafter, the City Council shall either annul, sustain, or modify, in
51 whole or in part, the assessment, either by confirming the preliminary assessment against any

1 or all lots or parcels described thereon or by cancelling, increasing, or reducing the same
2 according to the special benefits which the City Council decides each of the lots or parcels has
3 received or will receive on account of the improvements, except that assessments against
4 railroads because of contract or franchise obligations shall be in accordance with such
5 obligations. If any property is omitted from the preliminary roll, the City Council may place it
6 on the roll and levy the proper assessment. The City Council may thereupon confirm the
7 assessment roll, and the assessments so confirmed shall be in proportion to the special benefits,
8 except in the case of franchise obligations of railroads. Whenever the governing body shall
9 confirm assessments for local improvements, the City Clerk shall enter on the City Council
10 minutes and on the assessment roll the date, hour, and minute of confirmation, and, from the
11 time of confirmation, the assessments shall be a lien on the property assessed of the same
12 nature and to the same extent as County and City taxes and shall be superior to all other liens
13 and encumbrances. After the assessment roll is confirmed, a copy of the same shall be
14 delivered to the City Tax Collector.

15 "Section 6.80. **Appeal to superior court.** If the owner of, or any person interested in, any
16 lot or parcel of land against which an assessment is made is dissatisfied with the amount of the
17 assessment, he or she may, within 10 days after the confirmation of the assessment roll, give
18 written notice to the City Council that he or she takes an appeal to the Superior Court of
19 Alamance County, in which case he or she shall within 20 days after the confirmation of the
20 assessment roll serve on the Mayor or City Clerk a statement of facts upon which he or she
21 bases his or her appeal. The appeal shall be tried as other actions at law. The remedy herein
22 provided for any person dissatisfied with the amount of the assessment against any property of
23 which he or she is the owner or in which he or she is interested shall be exclusive.

24 "Section 6.81. **Power to correct error in assessment.** If it shall appear after confirmation
25 of any assessment roll that an error has been made, the City Clerk shall cause to be published
26 one time in some newspaper published in the City, or if there is no newspaper, the City Clerk
27 shall cause to be posted at three public places in the City a notice referring to the assessment
28 roll in which the error was made, naming the owner or owners of the lot or parcel of land
29 affected by the error, if the same can be ascertained, and naming the time and place fixed for a
30 hearing by the City Council for the correction of the error. The meeting shall not be earlier than
31 10 days from the publication or from the date of the posting of the notice. At the time fixed in
32 the notice or at some subsequent time to which the City Council may adjourn, the Council, after
33 giving the owner or owners of the property affected and other persons interested therein an
34 opportunity to be heard, may proceed to correct the error, and the assessment then made shall
35 have the same force and effect as if it had originally been properly made. No notice and hearing
36 shall be necessary if the correction does not increase an assessment against any property not
37 owned by the City or if all of the property owners affected by the correction waive notice in
38 writing.

39 "Section 6.82. **Reassessment.** The City Council shall have the power, when in its judgment
40 there is any irregularity, omission, error, or lack of jurisdiction in any of the proceedings
41 relating thereto, to set aside the whole of the local assessment made by it and thereupon to
42 make a reassessment. In such a case, there shall be included as a part of the cost of the
43 improvements involved all interest paid or accrued on notes or certificates of indebtedness or
44 bonds issued by the City to pay the expenses of the improvement. The proceeding shall, as far
45 as practicable, be in all respects as in the case of original assessments, and the reassessment
46 shall have the same force as if it had originally been properly made.

47 "Section 6.83. **Publication of notice of confirmation of assessment roll.** Within 10 days
48 from the confirmation of the assessment roll, the City Clerk shall give notice to all owners of
49 lands to be assessed that the assessment roll has been confirmed and that assessments may be
50 paid at any time before the expiration of 30 days from the date of the notice, without interest
51 from the date of the confirmation of the assessment roll, but that if the assessment is not paid in

1 full within the time, all installments thereof shall bear interest at the rate of eight percent (8%)
2 per annum from the date of confirmation of the assessment roll. The notice by the City Clerk
3 shall be given by regular mail. The certificate of the City Clerk that notices have been mailed
4 shall be conclusive in the absence of fraud.

5 "Section 6.84. **Payment of assessments in cash or by installments.** The property owner
6 hereinbefore mentioned in this Charter shall have the option and privilege of paying for the
7 improvements hereinbefore provided for in cash as provided in Section 6.83 of this Charter or
8 in not less than five or more than 10 equal annual installments as may have been determined in
9 the original resolution ordering the improvement or improvements. If paid in installments, the
10 installments shall bear interest at the rate of eight percent (8%) per annum from the date of
11 confirmation of the assessment roll. If any assessment is not paid in cash, the first installment
12 thereof with interest thereon shall become due and payable 30 days after the notice required by
13 Section 6.83 of this Charter, and one subsequent installment and interest thereon shall be due
14 and payable on the same day of the same month in each successive year until the assessment is
15 paid in full; provided, however, that if the governing body shall so direct the installments shall
16 become due and payable on the same date when property taxes of the City are due and payable.
17 If any installment with interest thereon is not paid when due, it shall be subject to the same
18 penalties as are now prescribed by law for unpaid taxes, in addition to the interest herein
19 provided for. The whole assessment may be paid at any time by the payment of the full amount
20 due with accrued interest.

21 "Section 6.85. **Enforcement of payment of assessments.** Upon the failure of any property
22 owner to pay any installment when due and payable, all of the installments remaining unpaid
23 shall immediately become due and payable, and property and rights-of-way may be sold by the
24 City under the same rules, regulations, rights of redemption, and saving as are now prescribed
25 by law for the sale of land for unpaid taxes. Unpaid assessments, interest, and penalties owed
26 by railroad companies and the State of North Carolina, its agencies, or subdivisions may be
27 collected by writs of mandamus issued by the Superior Court of Alamance County. Collection
28 of assessments with interest and penalties may also be made by the City by proceedings to
29 foreclose the lien of assessments as a lien for mortgages is or may be foreclosed under the laws
30 of the State, and it shall be lawful to join in any bill for foreclosure any one or more lots or
31 parcels of land, by whomsoever owned, if assessed for an improvement ordered by the same
32 resolution after default in the payment of any installment. The payment of all installments due,
33 together with interest and penalties due thereon and costs, before the lot or parcel of land
34 against which the same is a lien is sold or the lien is foreclosed shall bar the right of the City to
35 sell land or to foreclose the lien by reason of default.

36 "Section 6.86. **Assessment of cost of water main and sewer extensions.** If the resolution
37 ordering the making of any improvement or improvements included a provision for any
38 necessary extension of a water main or sewer or sewers beyond the limit of a street or streets, at
39 such time after the completion of the extension or extensions as, in the judgment of the
40 Council, circumstances justify the assessment of the cost thereof, the City Council shall cause a
41 preliminary assessment to be made, and the procedure thereafter to be followed with respect to
42 the assessment and the force and effect thereof shall be as already prescribed for other
43 assessments.

44 "Section 6.87. **Apportionment of assessments.** In any case where one or more special
45 assessments have been made, and property has been or is about to be subdivided and it is
46 desirable that the assessments be apportioned among the subdivisions of the property, the City
47 Council may, upon application by the owner or owners, apportion the assessments among the
48 subdivisions. Thereafter, each subdivision shall be relieved of any part of the original
49 assessment except the part apportioned to the subdivision, and the part of the original
50 assessment apportioned to any subdivision shall be of the same force and effect as the original
51 assessment.

1 "Section 6.88. **Change of ownership.** No change of ownership of any property or interest
2 therein after the passage of a resolution ordering the making of a local improvement shall affect
3 subsequent proceedings, and the improvement may be completed and assessment made therefor
4 as if there had been no change in ownership.

5 "Section 6.89. **Lands subject to assessment.** No lands in the City, including railroad
6 company lands and rights-of-way and property of the State of North Carolina, its agencies, or
7 subdivisions shall be exempt from special assessments, except lands belonging to the United
8 States which are exempt under the provisions of federal statutes, and the City Council and the
9 officers, trustees, or boards of all incorporated or unincorporated bodies in whom is vested the
10 right to hold and dispose of real property shall have the right by authority duly given to sign the
11 petition for any local improvements.

12 "Section 6.90. **Proceedings in rem.** All proceedings for special assessments shall be
13 proceedings in rem, and no mistake or omission as to the name of any owner or person
14 interested in any lot or parcel of land affected thereby shall be regarded as a substantial mistake
15 or omission.

16 "Section 6.91. **Grassplot, sidewalk, and driveway maintenance.** It shall be the
17 responsibility of the abutting property owner to maintain any grassplot or driveway between the
18 property line and the curb of a paved street and to maintain in good passable condition any
19 sidewalk immediately fronting his or her lot.

20 "Section 6.92. **City Council may hold in abeyance certain water and sewer
21 assessments.**

22 (a) The City Council may provide by resolution that assessments levied against abutting
23 lots or parcels of land for water main improvements or sanitary sewer improvements, when in
24 its opinion the improvements may not presently be used by the owner or owners of the abutting
25 lots or parcels of land, may be held in abeyance without the payment of any interest thereon
26 until such time as the City Council shall determine that any such assessments shall be paid in
27 accordance with the terms set out in the confirming resolution. A part of the assessments levied
28 for the improvements herein set out on a street or streets, or portion thereof, may be held in
29 abeyance as herein provided without holding all of the assessments in abeyance.

30 (b) All statutes of limitations are hereby suspended during the time that any assessment
31 is held in abeyance without the payment of interest, as provided in subsection (a) of this
32 section. Such time shall not be a part of the time limited for the commencement of action for
33 the enforcement of the payment of any such assessment, and the action may be brought at any
34 time within 10 years from the date of the adoption of a resolution by the Council determining
35 that the assessment shall be paid in accordance with the original resolution confirming it.

36 (c) Nothing herein shall be construed to revive any right of action which has heretofore
37 been barred by the statute of limitations.

38 "Section 6.93. **Abutting property outside City limits.** If any lots or parcels of land
39 abutting any local improvements are located outside the City limits, the City Council may
40 continue and delay the levy of assessments against the property until the City limits are
41 extended to include the property, or the City Council may provide that no water or sewer
42 service connections shall be made to the property, pending the annexation thereof, until all
43 assessments thereon are paid. Upon annexation, if not paid prior thereto, the City Council may
44 levy assessments for the local improvements against the property, and the procedure therefor
45 shall be the same as provided in this Charter. Nothing contained in this section shall be
46 construed to prohibit or restrict the City Council and a property owner from entering into an
47 agreement for payment in lieu of assessment.

48 "CHAPTER VII. – MISCELLANEOUS

49 "Section 7.01. **Presentation of claims against the City; suit upon claims.**

50 (a) Claims against the City arising in contract or tort shall be made in accordance with
51 G.S. 1-53, and as more particularly set forth as follows:

1 In order to preserve a claim against the City arising in contract or in tort, notice must be
2 given and the cause of action commenced in accordance with this section. A person with a
3 claim against the City arising in tort or contract must give written notice of the claim to the City
4 Councilor or its designee within six months and commence his or her action within two years
5 after the claim is due or the cause of action arises. If the complainant suffers from one of the
6 disabilities specified in G.S. 1-17, he or she may give the notice required by this section within
7 the time specified after the disability is removed. The City may at any time request the
8 appointment of a guardian ad litem to represent a person having a potential claim against the
9 City and known to be suffering from a disability specified in G.S. 1-17.

10 No action based on a claim arising in contract or in tort may be commenced except after 30
11 days following the day on which the notice required by this section is given. Unless notice of
12 the claim is given and the action commenced in accordance with this section, any action based
13 on the claim is barred.

14 (b) No action shall be instituted against the City on account of damages to or
15 compensation for real property used or taken by the City for any public purpose of any kind
16 unless, within two years after the alleged use, the owner, his or her executor, administrator,
17 guardian, or next friend shall have given notice in writing to the City Council of the claim, the
18 notice to set forth the date that the alleged use commenced, a description of the property
19 alleged to have been used, and the amount of damage or compensation claimed. Notwithstanding
20 the provisions of this subsection, if a complainant suffers from physical or
21 mental incapacity that renders it impossible for him or her to give notice, his or her action shall
22 not be barred if notice of claim is given by him or her on his or her behalf within one year after
23 the termination of the physical or mental incapacity, provided that minority shall not of itself
24 constitute physical or mental incapacity. If the complainant is a minor, his or her action shall
25 not be barred if notice of claim is given on his or her behalf within three years after the
26 happening of the infliction of the injury complained of or, if the minor suffers from physical or
27 mental incapacity that renders it impossible for him or her to give notice, his or her action shall
28 not be barred if notice of claim is given on his or her behalf within one year after termination of
29 the physical or mental incapacity or within three years after the happening or infliction of the
30 injury complained of, whichever is the longer period.

31 "Section 7.02. **Settlement of claims by City Manager.** The City Manager shall have
32 authority to settle claims against the City as provided by ordinance."

33 **SECTION 2.** The purpose of this act is to revise the Charter of the City of
34 Burlington and to consolidate certain acts concerning the property, affairs, and government of
35 the City. It is intended to continue without interruption those provisions of prior acts which are
36 expressly consolidated into this act so that all rights and liabilities which have accrued are
37 preserved and may be enforced.

38 **SECTION 3.** This act does not repeal or affect any acts concerning the property,
39 affairs, or government of public schools or any acts validating official actions, proceedings,
40 contracts, or obligations of any kind.

41 **SECTION 4.** The following acts, having served the purposes for which they were
42 enacted or having been consolidated into this act, are expressly repealed:

- 43 (1) Chapter 119 of the 1961 Session Laws, Section 1 only.
- 44 (2) Chapter 765 of the 1961 Session Laws.
- 45 (3) Chapter 828 of the 1963 Session Laws.
- 46 (4) Chapter 400 of the 1967 Session Laws.
- 47 (5) Chapter 362 of the 1967 Session Laws.
- 48 (6) Chapter 479 of the 1967 Session Laws.
- 49 (7) Chapter 642 of the 1969 Session Laws.
- 50 (8) Chapter 679 of the 1979 Session Laws.
- 51 (9) S.L. 2005-30.

1 (10) S.L. 2010-25.

2 (11) S.L. 2010-53.

3 **SECTION 5.** This act does not repeal by implication any local acts otherwise
4 applicable to the City of Burlington.

5 **SECTION 6.** The Mayor and City Councilmembers serving on the date of
6 ratification of this act shall serve until the expiration of their terms or until their successors are
7 elected and qualified.

8 **SECTION 7.** This act does not affect any rights or interests which arose under any
9 provisions repealed by this act.

10 **SECTION 8.** All existing ordinances, resolutions, and other provisions of the City
11 of Burlington not inconsistent with the provisions of this act shall continue in effect until
12 repealed or amended.

13 **SECTION 9.** No action or proceeding pending on the effective date of this act by
14 or against the City of Burlington or any of its departments or agencies shall be abated or
15 otherwise affected by this act.

16 **SECTION 10.** Whenever a reference is made in this act to a particular provision of
17 the General Statutes and such provision is later amended, superseded, or recodified, the
18 reference shall be deemed amended to refer to the amended General Statute or to the General
19 Statute which most clearly corresponds to the statutory provision which is superseded or
20 recodified.

21 **SECTION 11.** This act is effective when it becomes law.