

1 Section 62, entitled "Regulation of Amusements";
2 Section 64, entitled "Regulation of bondsmen";
3 Section 65, entitled "Protection of businesses from fraud";
4 Section 66, entitled "Licensing of plumbers and electricians";
5 Section 83, entitled "Public buildings";
6 Section 84, entitled "Public contracts";
7 Section 98, entitled "Dedication or reservation of recreation areas";
8 Section 99, entitled "Building inspections";
9 Section 103, entitled "Regulation of parks and squares";
10 Section 104, entitled "Public concerts";
11 Section 106, entitled "Appropriations for recreational, scientific and cultural
12 activities";
13 Section 107, entitled "Advertisement of the city";
14 Section 108, entitled "Encouraging location of industry";
15 Section 109, entitled "City ice plant";
16 Section 110, entitled "City rock quarry";
17 Section 113, entitled "Authority to waive governmental immunity"; and
18 Section 117, entitled "Penalty for failure to turn over city property".

19 **SECTION 2.** Section 7 of the Charter of the City of Durham, being Chapter
20 671 of the 1975 Session Laws, reads as rewritten:

21 "Sec. 7. Oaths of Office. – The Mayor and each Council member, before entering
22 upon the duties of the office to which they have been elected, shall take before some
23 officer authorized to administer oaths an oath that they will fairly and impartially
24 perform the duties of their office. ~~The Mayor and Council members shall hold their
25 respective offices until their respective successors have been duly qualified."~~

26 **SECTION 3.** Section 8 of the Charter of the City of Durham, being Chapter
27 671 of the 1975 Session Laws, as amended by Chapter 370 of the 1983 Session Laws
28 and Chapter 169 of the 1985 Session Laws, reads as rewritten:

29 "Sec. 8. Powers of the City Council. – The City Council shall have full power and
30 authority, except as otherwise provided for in this Charter, to exercise all of the powers
31 conferred upon and delegated to the City of Durham by this Charter and by the laws of
32 North Carolina. The City Council shall have power to make such ordinances, rules and
33 regulations as it may deem necessary for the proper government of the City and to
34 promote and safeguard the health, morals, safety and general welfare and convenience
35 of the public. The City Council may provide for the proper enforcement of such
36 ordinances, in such manner as it may think best, by fine, imprisonment or otherwise.
37 The City Council may provide for the organization of the offices, departments and
38 divisions of City government, not inconsistent with this Charter: By way of example
39 and not limitation, the City Council, in performing the duties and responsibilities set
40 forth in G.S. 160A-412, may assign all or part of the duties of an inspection department
41 to an existing or newly created department, division or office of the City, may assign all
42 or some of the personnel appointed pursuant to G.S. 160A-411 to an existing or newly

1 created department, division or office of the City and may designate the job titles and
2 duties of the personnel so assigned.

3 ~~Pursuant to Article V, Section 2(7) of the Constitution of North Carolina, the City~~
4 ~~Council may contract with and appropriate money to any person, association, or~~
5 ~~corporation for the accomplishment of any public purpose."~~

6 **SECTION 4.** Section 30 of the Charter of the City of Durham, being
7 Chapter 671 of the 1975 Session Laws, reads as rewritten:

8 "Sec. 30. Authority to Operate Waterworks. ~~(1) The City Council is authorized to~~
9 ~~conduct and operate the municipally owned waterworks of the City for the purpose of~~
10 ~~supplying the purchasers of water of the system with a good and wholesome supply~~
11 ~~thereof. Persons employed by the City in connection with said system shall be appointed~~
12 ~~by the City Manager and shall be under his supervision and control.~~

13 (2) ~~For the purpose of properly operating and maintaining the system and~~
14 ~~for making additions and improvements thereto as may be necessary at~~
15 ~~all times to properly operate the system, the City Council shall have~~
16 ~~power to acquire by purchase or by condemnation additional property~~
17 ~~or rights within or without the City.~~

18 (3) The City Council, and all persons acting under their authority, shall
19 have the right to use the ground or soil, in, or upon, or under any road,
20 railroad, highway, lane or alley for the purpose of enlarging or
21 improving or maintaining the plant or system of waterworks owned by
22 the City, upon the condition that they shall not permanently injure any
23 such property, and that the same shall be restored to its original
24 condition, or damages done thereto shall be repaired by the City
25 Council.

26 **SECTION 5.** In order to recodify a local modification to G.S. 160A-314
27 applicable to the City of Durham as a part of the Charter, S.L. 1998-50 is repealed and
28 the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, is
29 amended by adding a new section to read:

30 "Sec. 38. Stationary container collection service.

31 (a) Where housing units qualify under city ordinances for roll-out cart solid
32 waste collection service, and the housing units instead choose to be served by stationary
33 containers in accordance with city ordinances, a city may provide stationary container
34 collection service without charging fees for such service other than the fees applicable
35 to roll-out cart service.

36 (b) Nothing in this section shall be construed to impair the authority of a city to
37 charge customers who do not qualify for service under subsection (a) of this section the
38 fees established by city ordinances for stationary container collection service."

39 **PART II. DURHAM OCCUPANCY TAX**

40 **SECTION 6.** Durham Occupancy Tax. (a) Authorization and Scope. – The
41 Durham County Board of Commissioners may levy a room occupancy tax of three
42 percent (3%) of the gross receipts derived from the rental of any room, lodging, or

1 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
2 the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
3 This tax is in addition to any State or local sales tax. This tax does not apply to
4 accommodations furnished by nonprofit charitable, educational, or religious
5 organizations when furnished in furtherance of their nonprofit purpose.

6 **SECTION 6.(b)** Authorization of Additional Two Percent (2%) Tax. – In
7 addition to the tax authorized by subsection (a) of this section, the Durham County
8 Board of Commissioners may levy a room occupancy tax of two percent (2%) of the
9 gross receipts derived from the rental of accommodations taxable under subsection (a)
10 of this section. The levy, collection, administration, and repeal of the tax authorized by
11 this act shall be in accordance with the provisions of this section. Durham County may
12 not levy a tax under this subsection unless it also levies the tax authorized under
13 subsection (a) of this section.

14 **SECTION 6.(c)** Authorization of Additional One Percent (1%) Tax. – In
15 addition to the tax authorized by subsections (a) and (b) of this section, the Durham
16 County Board of Commissioners may levy a room occupancy tax of one percent (1%)
17 of the gross receipts derived from the rental of accommodations taxable under
18 subsections (a) and (b) of this section. The levy, collection, administration, and repeal of
19 the tax authorized by this act shall be in accordance with the provisions of this section.
20 Durham County may not levy a tax under this subsection unless it also levies the tax
21 authorized under subsections (a) and (b) of this section.

22 If a plan for financing a Performing Arts Theater has not been approved by
23 the Durham City Council and has not been disapproved by the Durham County
24 Commissioners within 42 months after the levy of the one-cent (1¢) tax authorized
25 under this subsection, the county's authority to levy the one-cent (1¢) tax described in
26 this subsection and the levy of the one-cent (1¢) tax described in this subsection are
27 repealed on the first day of the second month following the 42-month period.

28 If construction on the Performing Arts Theater has not begun within 42
29 months after the levy of the one-cent (1¢) tax authorized under this subsection, the
30 county's authority to levy the one-cent (1¢) tax described in this subsection and the levy
31 of the one-cent (1¢) tax described in this subsection are repealed on the first day of the
32 second month following the 42-month period.

33 Any funds collected but not spent before the repeal date shall be redistributed
34 to the Durham Convention and Visitors Bureau to promote travel and tourism.

35 This section does not affect the rights or liabilities of the county, a taxpayer,
36 or another person arising under a law amended or repealed by this section before the
37 effective date of its amendment or repeal; nor does it affect the right to any refund or
38 credit of a tax that accrued under the amended or repealed law before the effective date
39 of its amendment or repeal.

40 **SECTION 6.(d)** Administration. – A tax levied under this section shall be
41 levied, administered, collected, and repealed as provided in G.S. 153A-155. The
42 penalties provided in G.S. 153A-155 apply to a tax levied under this section.

1 **SECTION 7.(a)** Distribution and Use of Tax Revenue. – Durham County
2 shall distribute and use the net proceeds of the tax collected under this act as provided in
3 this section. As used in this section, "net proceeds" means gross proceeds less the cost
4 to the county of administering and collecting the tax, as determined by the finance
5 officer.

6 **SECTION 7.(b)** Use of Proceeds From First Three Percent (3%) Tax. –
7 Durham County shall retain fifty-seven and one-half percent (57½%) of the net
8 proceeds collected from the tax levied under subsection (a) of Section 6 of this act and
9 shall distribute the remaining forty-two and one-half percent (42½%) of the net
10 proceeds collected from the tax levied under subsection (a) of Section 6 of this act to the
11 City of Durham. Funds retained by the county or distributed to the City of Durham
12 pursuant to this subsection may be used for any purpose authorized by law.

13 **SECTION 7.(c)** Use of Proceeds From Additional Two Percent (2%) Tax. –
14 Durham County shall, on a monthly basis, remit the net proceeds of the tax levied under
15 Section 6(b) of this act to the Durham Convention and Visitors Bureau, a joint agency
16 established by an interlocal cooperation agreement between Durham County and the
17 City of Durham. The Bureau may use funds remitted to it under this subsection only to
18 promote travel and tourism in Durham County. If the interlocal cooperation agreement
19 expires or the Bureau is otherwise dissolved, Durham County shall use the net proceeds
20 of the tax levied under Section 6(b) of this act only to promote travel and tourism in
21 Durham County.

22 **SECTION 7.(d)** Use of Proceeds From Additional One Percent (1%) Tax
23 During First 24 Months. – The net proceeds of the tax collected under Section 6(c) of
24 this act during the first 24 months that the tax is levied shall be distributed and used as
25 follows:

- 26 (1) The county shall use up to the first two hundred thousand dollars
27 (\$200,000) collected to fund the development of a Cultural Arts
28 Master Plan.
- 29 (2) The county shall remit the next seven hundred thousand dollars
30 (\$700,000) collected to the Durham Convention and Visitors Bureau.
31 The Bureau shall use the funds remitted to it under this subdivision to
32 promote travel and tourism.
- 33 (3) The county shall remit the next two hundred forty-eight thousand
34 dollars (\$248,000) collected to the City of Durham. The city shall use
35 these funds for the design and engineering costs associated with the
36 construction of a Performing Arts Theater.
- 37 (4) The county shall use the next four hundred thousand dollars
38 (\$400,000) collected for improvements to the Museum of Life and
39 Science. This may include the financing of debt service.
- 40 (5) The county shall credit the next five hundred thousand dollars
41 (\$500,000) collected into an Arts Reserve Fund and shall use the funds

1 to implement the Cultural Arts Master Plan developed under
2 subdivision (1) of this subsection.

- 3 (6) The county shall remit any revenue collected in excess of two million
4 forty-eight thousand dollars (\$2,048,000) to the Durham Convention
5 and Visitors Bureau to be used to promote travel and tourism.

6 **SECTION 7.(e)** Use of Proceeds From Additional One Percent (1%) Tax
7 After First 24 Months. – The net proceeds of the tax collected under Section 6(c) of this
8 act after the first 24 months that the tax is levied shall be distributed quarterly and used
9 as follows:

- 10 (1) The first one million four hundred thousand dollars (\$1,400,000)
11 collected annually shall be used to finance the debt service associated
12 with the construction of the Performing Arts Theater. Thirty-two years
13 after the levy of the tax authorized under Section 6(c) of this act, these
14 proceeds shall be distributed to the Durham Convention and Visitors
15 Bureau to promote travel and tourism.
- 16 (2) The next five hundred thousand dollars (\$500,000) collected annually
17 may be used for improvements to the Museum of Life and Science.
18 This may include the financing of debt service. Any of these funds that
19 are not needed for this purpose shall be distributed to the Durham
20 Convention and Visitors Bureau and used to promote travel and
21 tourism.
- 22 (3) The county shall remit any revenue in excess of one million nine
23 hundred thousand dollars (\$1,900,000) collected annually to the
24 Durham Convention and Visitors Bureau which shall be used to
25 promote travel and tourism.

26 As used in this subsection, "annually" means the 12-month period beginning
27 after the first 24 months that the tax authorized under Section 6(c) is levied.

28 **SECTION 8.** Section 3 of Chapter 969 of the 1985 Session Laws reads as
29 rewritten:

30 "Sec. 3. This act applies only to the following counties: Graham, Clay, Jackson,
31 ~~Durham~~, Macon, Polk, and Transylvania."

32 **SECTION 9.** Chapter 665 of the 1991 Session Laws is repealed.

33 **SECTION 10.** The purpose of Part II of this act is to consolidate the acts
34 relating to Durham County's authority to levy an occupancy tax and to authorize
35 Durham County to levy an additional one percent (1%) occupancy tax. It is intended
36 that those provisions of prior acts that are expressly consolidated into this act continue
37 without interruption so that all rights and liabilities that have accrued are preserved and
38 may be enforced.

39 **PART III. EFFECTIVE DATE**

40 **SECTION 11.** Part II of this act becomes effective December 1, 2001. The
41 remainder of this act is effective when it becomes law.