

ARTICLE 1

An Overview of Local Government

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UNDER THE AMERICAN federal system, state governments are primarily responsible for all governmental functions not delegated to the federal government in the U.S. Constitution. Each of the fifty state governments has divided responsibility for all activities under its control between itself and its local units of government—cities and towns, counties, townships, special districts, and authorities. The pattern of responsibility may differ from state to state depending on that state’s traditions, circumstances, and political judgments, but the state and one or more units of local government are responsible for the major governmental activities required in every community, such as the following:

Administration of the courts	Public libraries
Airports	Public water supply
Civic facilities such as auditoriums	Public welfare
Conduct of elections	Recording of documents
Fire protection	Regulation of land use and development
Law enforcement	Regulation of personal conduct
Parks and recreation	Sewage collection and disposal
Public education	Solid waste collection and disposal
Public health	Streets and highways

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This is not a comprehensive list, but it indicates the scope of state and local governmental responsibilities that must be met by the various units of government that have been developed since the nation was founded.

Defining Terms

The states' patterns of government are often similar, but they also differ in characteristic ways. Before we consider the history and current pattern of local government in North Carolina and the relation of local government to state government, terms must be clearly defined. There is no legal distinction in North Carolina between a *city*, a *town*, and a *village*. The all-inclusive term for them is *municipality*. A municipality may call itself by whichever designation it chooses; it usually specifies that choice in its charter, which is the local law that creates the city. *City* usually refers to a large municipality, *town* to a small one. However, there are exceptions. For example, the Town of Cary is now the seventh largest municipality in the state, while the City of Saluda has a population of about 500. In this volume *city* refers to municipalities of all sizes, both large and small.

The terms *urban area*, *city*, and *city government* are often used interchangeably, with occasional confusion as a result. Precisely used, *urban* refers to how land is developed, connoting a place where there are residences, commercial and institutional activity, or industry. It contrasts with *rural*, which suggests that the dominant land use is agriculture or forestry. *City* is a place designation, and often the urban area that the casual observer describes as "the city" includes areas that are outside the boundaries of the legal city within which the *city government* has jurisdiction. Urban areas in the United States may cover a number of separate local governmental jurisdictions.

In North Carolina, all territory lies within one of 100 *counties*, but only some parts of the state are incorporated within the limits of a city. For convenience this volume generally uses *city* to mean *city government* when it is clear that the legally incorporated city government is the subject, and *county* when it is clear that it is the *county government* that is being discussed. Other limited-function types of local governments are generally referred to by the legal name given them by the North Carolina General Assembly, such as *authority* (e.g., airport, hospital, or water and sewer authority); *district* (e.g., water and sewer or fire protection district); or *administrative unit* (e.g., school administrative unit). *Local governmental unit*, or *unit*, is also sometimes used to refer generally to a local government such as a city or county.

In North Carolina, the dominant forms of local government are cities and counties.¹ Both cities and counties are general-purpose local governments—their governing boards are elected by the qualified voters of the city's or county's geographic area; they have the power to levy taxes; they can regulate conduct through laws called *ordinances* (this ability is called the police power and is discussed in article 4); and they are authorized and, especially with counties, sometimes required to provide a broad range of services to their citizens. While there are some other types of local governments in the state that have at least one of the listed characteristics (for example, sanitary district boards and the boards of education that govern school administrative units are elected; boards of health can enact regulations related to health and airport authorities can enact rules governing conduct on airport property; and a wide range of entities from water and sewer districts to hospital authorities provide services), no other local governments are general-purpose in the way that cities and counties are.

As noted above, city and county jurisdictions overlap in North Carolina. All of the state's territory lies within one of its 100 counties, and the boundary lines of the cities are overlaid on the counties. Cities generally lie entirely within one county, but this is not required. Indeed, there are at least thirty-four cities in two or more counties. Parts of the City of High Point are in each of four counties, for example, and Hickory and Sharpsburg are each in three. Chapel Hill and Rocky Mount are examples of cities that are divided between two counties.

1. Counties with no incorporated city lying within their boundaries are permitted to exercise most municipal functions pursuant to G.S. Chapter 153A, Article 24, of the North Carolina General Statutes (hereinafter G.S.), "Unified Government," if the change is approved by the county's voters in a referendum called by the board of commissioners. (Three eastern counties currently meet this definition: Camden, Currituck, and Hyde, and one of them, Hyde, has approved the unified government system.) A change by a county to the unified government structure has at least two main effects. It makes it harder to incorporate other cities within the county limits, and it allows the county to provide some services generally reserved for cities—primarily road construction and maintenance.

Cities and Counties as Legal Entities

Cities and counties, as defined geographic subdivisions of the state, serve many purposes. Churches, civic clubs, and other societal institutions use them as convenient subdivisions for their own purposes. The business world may assign sales territories and franchises to areas composed of one or more of them. A particular city or county may play a role in the psychology of people born and raised in that area: it serves to establish where they are from and who they are, thus becoming a part of their personal identity. But both cities and counties were created by the state as political units, and this remains their primary purpose.

A city is formed primarily at the request of the people within its jurisdiction to serve the needs of the inhabitants, although cities are also called on occasionally by the state legislature to help meet statewide needs. For example, city limits often form part of the electoral precinct lines for state and federal as well as local elections, and cities enforce statewide watershed protection rules within their boundaries.

In contrast, the primary reason for establishing a county historically was to serve state purposes and to perform state functions in a given area, rather than to satisfy the needs of a particular geographic community. In more recent times, counties have also been authorized to carry out a wide variety of urban functions so that today, in addition to their function as state agencies, counties also serve as the primary local government for about half the people of the state.

What do the statutes say about the scope of cities' and counties' powers as legal entities? The relevant enabling laws are somewhat different, reflecting the fact that counties are both state agencies and local governments, while cities are local governments only.

G.S. 153A-11 states that "[t]he inhabitants of each county are a body politic and corporate under the name specified in the act creating the county." A *body politic* is a civil division of the state for purposes of governmental administration. This designation recognizes the role that counties play in carrying out functions on behalf of the state.

Counties are also "bodies corporate," as are cities. G.S. 160A-11 mirrors this part of G.S. 153A-11 in specifying that "[t]he inhabitants of each city heretofore or hereafter incorporated . . . shall be and remain a municipal corporation by the name specified in the city charter."

To be a "body corporate" or a "municipal corporation" is to be treated as a legally recognized entity, or a "legal person." In recognition of each city's and each county's corporate, legal identity, G.S. 153A-11 and G.S. 160A-11 specify a wide variety of powers that each of these types of local governments may exercise as corporate bodies. For example, they may buy and sell property, contract, and sue and be sued.²

The legal powers of cities and counties are exercised by their respective governing boards, unless the General Assembly provides otherwise.³ While in general city councils oversee most of their cities' operations, a board of county commissioners must work with a variety of other boards and elected and appointed officials who share part of

2. "Under that [county] name they are vested with all the property and rights of property belonging to the corporation; have perpetual succession; may sue and be sued; may contract and be contracted with; may acquire and hold any property and rights of property, real and personal, that may be devised, bequeathed, sold, or in any manner conveyed, dedicated to, or otherwise acquired by the corporation, and from time to time may hold, invest, sell, or dispose of the property and rights of property; may have a common seal and alter and renew it at will; and have and may exercise in conformity with the laws of this State county powers, rights, duties, functions, privileges, and immunities of every name and nature" (G.S. 153A-11).

"Under that [city] name they shall be vested with all of the property and rights in property belonging to the corporation; shall have perpetual succession; may sue and be sued; may contract and be contracted with; may acquire and hold any property, real and personal, devised, bequeathed, sold, or in any manner conveyed, dedicated to, or otherwise acquired by them, and from time to time may hold, invest, sell, or dispose of the same; may have a common seal and alter and renew the same at will; and shall have and may exercise in conformity with the city charter and the general laws of this State all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever . . ." (G.S. 160A-11).

3. "Except as otherwise directed by law, each power, right, duty, function, privilege and immunity of the [county] corporation shall be exercised by the board of commissioners. A power, right, duty, function, privilege, or immunity shall be carried into execution as provided by the laws of the State; a power, right, duty, function, privilege, or immunity that is conferred or imposed by law without direction or restriction as to how it is to be exercised or performed shall be carried into execution as provided by ordinance or resolution of the board of commissioners" (G.S. 153A-12).

"All powers, functions, rights, privileges, and immunities of the [city] corporation shall be exercised by the city council and carried into execution as provided by the charter or the general law. A power, function, right, privilege, or immunity that is

the county's decision-making powers, particularly with respect to the functions that counties perform as state agents. As G.S. 153A-76 makes clear, the legal powers that would otherwise belong to the county commissioners under G.S. 153A-12 have been assigned elsewhere by the General Assembly in a number of instances.⁴

The legal powers of cities and counties have changed many times over the nearly two and one-half centuries of North Carolina's independence. The General Assembly is free to withhold, assign, withdraw, and supervise the specific powers of any agency of government—city, county, state, or special district. If the legislature can be persuaded to assign cities or counties any given power or responsibility, that assignment becomes state policy for city or county administration unless prohibited by the North Carolina Constitution or by federal law.

The development of state policy with regard to this allocation of functions among governmental units and agencies is necessarily determined by successive legislatures' changing ideas of what is best calculated to achieve desired results. Experience plays a major role in this determination of state policy. The experience of financial emergency and stress that affected both cities and counties during the Great Depression, for example, led to major changes in the state rules governing city and county borrowing. (See the discussion below in the section on "Cities and Counties in the Twentieth and Early Twenty-first Centuries.")

As another example, experience with various local arrangements for road building and maintenance has led to a current state policy that makes the state and municipal governments, and not counties, responsible for this work. The legislature, reflecting the concerns of the people of the state, recognized many years ago that there is a community of interest in roads that is wider than the single county. It defined state policy accordingly. At the same time, it continued to authorize cities to address the more detailed street and road needs of urbanized areas.

In addition to these examples involving both cities and counties (bond issuance, road maintenance), many changes in state policy have affected the respective roles played by counties as state agents and the state government. Over the years, redefinitions of the appropriate areas of concern have affected county and state governmental responsibility for operating schools, conducting elections, housing the state's system of lower courts and their records, maintaining property ownership and mortgage records, enforcing much of the state's criminal law, administering public health and social services programs, and carrying on state programs designed to foster agriculture. Some of these functions are the responsibility of the boards of county commissioners, and some are assigned to other boards with varying relationships to the boards of commissioners. This reflects the policy of the state to make extensive use of its counties in carrying out a large number of statewide government operations that the legislature considers essential, regardless of the direct role that the commissioners may play in any of these fields. (The board of county commissioners must budget and provide partial or complete funding for each of the activities listed.)

conferred or imposed by charter or general law without directions or restrictions as to how it is to be exercised or performed shall be carried into execution as provided by ordinance or resolution of the city council" (G.S. 160A-12).

4. See the limitations stated in the last four sentences of G.S. 153A-76, which have no parallel in the laws governing cities:

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

(1) The board may not abolish an office, position, department, board, commission, or agency established or required by law.

(2) The board may not combine offices or confer certain duties on the same officer when this action is specifically forbidden by law.

(3) The board may not discontinue or assign elsewhere a function or duty assigned by law to a particular office, position, department, board, commission, or agency.

(4) The board may not change the composition or manner of selection of a local board of education, the board of health, the board of social services, the board of elections, or the board of alcoholic beverage control (G.S. 153A-76).

For example, from the beginning the county has been used as the basic local unit in the judicial system and for law enforcement—there one finds the court, courthouse, sheriff, jail, clerk of court, and court records. But the court is not a *county* court; it is a unit of the *state's* judicial system. The judge, district attorney, clerk, and magistrates are state officials who administer state law, not county law.

Legislative elections provide another good example of how the role of counties in carrying out state policy can change. For many years the county was the basic unit for popular representation in the General Assembly because both House and Senate districts were composed of single or multiple counties. More recently, census tracts, which are often subdivisions of cities, began to be used as building blocks of legislative representation, because of federal requirements that legislative districts be drawn in ways that respect the right of each citizen to cast an equally weighted vote and that do not dilute the voting strength of racial minorities. Most recently, however, the North Carolina Supreme Court interpreted the state constitution as requiring that county lines must continue to be respected in drawing legislative districts, to the extent that this can be done without violating the “one-person, one-vote” rule just mentioned.

Cities are generally not involved in the day-to-day administration of the areas of statewide concern just considered, with the main exception of streets and highways. This reflects the idea that the primary function of cities is to provide a system of local government and local services desired by citizens in defined urban or urbanizing areas. Cities are, however, guided by the state in how they undertake these municipal functions.

How Acts of the General Assembly Affect Cities and Counties

The General Assembly expresses and codifies state policy decisions by enacting statutes and by proposing constitutional amendments for voter consideration. North Carolina's appellate courts interpret these state laws by rendering opinions. In describing the duties and powers of cities and counties, the legislature or the courts sometimes speak in terms of mandate or command and sometimes in terms of permission and discretion. Thus, for example, counties are *required* to help finance the public schools, but cities and counties have discretionary authority to exercise planning and zoning powers.

The legislature makes two kinds of laws. It enacts general statutes that apply statewide and local or special laws that pertain exclusively to named counties or cities. The law creating a city, which contains its operating “constitution” or charter, is a good example of a local law. The North Carolina Constitution contains limitations on legislative authority to enact local laws dealing with a substantial list of topics, and both the state constitution and federal law impose other limits on the General Assembly's actions. The courts interpret legislative compliance with those restrictions.

In the absence of state constitutional or federal constitutional, statutory, or regulatory restriction, however, the legislature is free under North Carolina's governmental system to create, abolish, and govern cities, counties, and other local governments as it sees fit.⁵ As the North Carolina Supreme Court stated in an early case involving a county, local governments in this state “are subject to almost unlimited legislative control, except when the power is restricted by constitutional provisions.”⁶ More examples and details about this state power to oversee cities and counties may be found in Article 4, “The Police Power.”

Included in the General Assembly's freedom is the ability to permit local variety and experimentation through the use of local acts. This activity was once denounced by students of government, but it is now seen as a useful device for exploring new ideas and approaches to government problems. Given this legislative flexibility, any discussion of city or county powers and responsibilities must always be prefaced with a caution that what is being said about cities or counties in general may not hold true for any particular jurisdiction.

5. See N.C. CONST., Art. VII, Sec. 1, first sentence: “The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.”

6. *Martin v. Commissioners of Wake County*, 208 N.C. 354, 180 S.E. 777 (1935).

The Early History of Local Government in North Carolina

We now turn to a discussion of the history of North Carolina counties, cities, and other local governmental units, followed by further consideration of the current characteristics of local government in the state.

Colonial Times through the War between the States

Counties

It was accepted from the earliest days of colonial government in North Carolina that governmental administration could not all be efficiently centralized in the colonial capital. Therefore, following the English tradition, the colony established county governments for the local administration of many of the functions of government considered essential throughout the colony: administration of the court system, law enforcement, the conduct of elections, care of the poor, and maintenance of roads. Like its neighboring colonies, pre-Revolutionary North Carolina also relied heavily on the county for local government purposes. Justices of the peace, as a body or court, administered the county's affairs. They were men of standing, often men of substance, and were generally leaders in their communities.

As settlements began to develop around seaports, trading centers, and the courthouses that served as the seats of county government, the people who lived in them also began to need services that the county governments could not or would not provide for everyone in the county. Again following the English tradition, independent municipal corporations (the city, the town, and the borough) that had the power to provide and finance the additional governmental functions needed when people live close together were created by the colonial legislature. This simple pattern of government, involving the state, counties, and cities and towns, was in effect at the time of the American Revolution.

Independence from England brought no wrenching changes to the city and county systems. In the early days of North Carolina's statehood, the county justices of the peace were appointed by the governor to serve at the pleasure of the governor, but in making his appointments the governor relied on recommendations from the General Assembly. Thus, as a matter of practical politics, the members of the legislature from a given county had a powerful voice in the selection of its justices of the peace and therefore in its government.

As a group, the justices in a county formed a body known as the Court of Pleas and Quarter Sessions. Any three justices sitting together constituted a quorum for transacting business. The common practice was for the justices to meet each January, select a chair,⁷ and then elect five of their number to hold the regular sessions of the court for the year. At first the court appointed the sheriff, the coroner, and the constables. Later, these offices were made elective—the sheriff and coroner from the county at large and the constables from captains' districts (militia-mustering areas). The justices were also responsible for appointing a clerk of court, register of deeds, county attorney, county trustee (treasurer), surveyor, and overseers or wardens of the poor.

The Court of Pleas and Quarter Sessions had a dual task. Although called a court—and it did perform judicial functions—the body also had administrative duties. Thus the justices were responsible for assessing and levying taxes; establishing and maintaining roads, bridges, and ferries; granting licenses to taverns and controlling the prices charged for food; and the erection and control of mills. Through their powers of appointment, they supervised the work of law enforcement officers, administrative officers of the court, the surveyor, and the wardens of the poor. Taxes were collected by the sheriff.

In its judicial capacity, the Court of Pleas and Quarter Sessions heard civil cases (except those assigned by law to a single justice or to a higher court); it was responsible for probate, dower, guardianships, and the administration of estates; and it had jurisdiction in minor criminal cases.

The county itself was a single political unit. There were no townships, and the Court of Pleas and Quarter Sessions exerted strong control over county affairs through its appointive and administrative powers. It should, however, be emphasized that the voters had no direct control over the court (since it was appointed by the legislature) and thus no such control over county government. This was the county situation until the end of the Civil War (1861–65).

7. The gender-neutral term *chair* is used throughout this article, even though the statutes dealing with counties and county commissioners use the term *chairman*.

Cities

In contrast to the county, the colonial and late 1700s North Carolina town, serving several hundred people, had few functions. It organized a town watch, established a volunteer fire department, built public wells, kept the streets in repair, occasionally (as in Fayetteville and Wilmington) built a town market, and passed ordinances to protect the public health and safety. The colonial town supported its activities from fees, charges, fines and penalties, and revenue from the sale of lots.

North Carolina towns remained largely trading centers and county seats until after 1865. They did not grow with industrialization during the antebellum period, as many northern cities did. Indeed, by 1850 only one North Carolina city, Wilmington, had a population as great as 5,000. As a result, North Carolina cities were a full half-century or more delayed in encountering a demand for such major municipal functions as water systems and paid police departments. Property, poll, and license taxes were introduced around 1800, but tax levies for cities and towns were very small until after the Civil War.

Counties and Townships from 1868 to 1878

When the North Carolina Constitution was rewritten in 1868, its drafters—many of whom were acquainted with local government systems in other parts of the country—devised a new and apparently more democratic plan of organization for the counties. It strongly resembled the plans used in Pennsylvania and Ohio.

Although the position of justice of the peace was retained, the old Court of Pleas and Quarter Sessions was eliminated. Its judicial responsibilities were divided between the justices of the peace and the superior court. Its administrative work was assigned to a board of commissioners, composed of five members elected by the voters of the county at large.

The commissioners were made responsible for public buildings, schools, roads, and bridges, as well as for the financial affairs of the county, including taxation. The wide appointive powers of the Court of Pleas and Quarter Sessions were not transferred to the board of commissioners. Instead, the voters of the county elected the sheriff, coroner, clerk of court, register of deeds, surveyor, and treasurer. The sheriff continued to serve as tax collector.

Each county was divided into townships—a distinct innovation in North Carolina—and the voters of each township elected two justices of the peace and a clerk who together served as the township’s governing body. Under the county commissioners’ supervision, this board was responsible for roads and bridges and for assessing property for taxation. Each township also elected a constable and a three-member school committee.

This long-ballot system with numerous separately elected officials favored the newly formed Republican party. That party’s support was gathered from the newly enfranchised African Americans, most of whom had been slaves only three years before; from some native whites of small means who had opposed secession and remained loyal to the Union throughout the Civil War; and from a relatively small number of prominent citizens who believed that the state’s shattered fortunes could be recovered only through cooperation and understanding between the races as well as accommodation with the dominant national political party. This new long-ballot system seriously undermined the political power of the landowners, professionals, and merchants who had dominated state government—and thus local government under the old system—for nearly a century. Although most of these people were disenfranchised by the Fourteenth Amendment to the United States Constitution because they had “engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof” by actively supporting the Confederacy during the recent war, they formed the Conservative party, a new political group devoted to restoring as much of the prewar social and governmental system as was possible under the circumstances. The new system of county government created by the constitution of 1868 became one of their major targets.

State Constitutional Changes of 1875

Seven years after the constitution of 1868 established the county commissioners and township systems, political control shifted to the Conservatives. By convention in 1875, the constitution was amended to authorize the General Assembly to modify the plan of county government established in 1868, and the legislature was quick to exercise its authority. The 1877 General Assembly stripped the townships of their powers. They were retained as convenient administrative subdivisions, primarily for road building and maintenance purposes, but they were no longer distinct units of local government with their own elected governing boards. More importantly, the General Assembly returned to the old system of appointing justices of the peace by special act of the legislature, which meant in practice that justices were chosen by the county’s legislative delegation. The most powerful tools of government—the powers to tax and to

conduct elections—were handed over to the justices. The boards of county commissioners were not abolished but they could not levy taxes or make other major decisions unless a majority of the justices concurred. And this was only the general law—in some counties, the commissioners were also made subject to legislative appointment.

This arrangement lasted for twenty years. In 1895 the ability of the people to elect commissioners was restored in most counties, and the requirement that the boards' decisions be approved by the justices of the peace was repealed. Popular election of the commissioners was finally restored in all counties in 1905.

Local Government Services between 1865 and 1900

Between 1865 and 1900, city water and sewer systems were first introduced, largely through franchised private companies. Public transportation, such as streetcar systems, was introduced under similar franchises, as were electric and telephone systems. Street lighting first became common. The large cities began to spend a lot of money on paving streets, just as the large counties began to pave the roads that led out from the cities. With the demand for paved streets and utilities came special assessments and water charges. Public health regulations also received an increased emphasis. Schools came to be operated by school districts, with better and more expensive schools in the cities and the towns. Wilmington reached a population of 10,000 in 1870, followed by Asheville, Charlotte, and Raleigh in 1880.

Cities and Counties in the Twentieth and Early Twenty-first Centuries

1900 to 1920

During the first two decades of the twentieth century, there were several new developments in North Carolina local government. Streets and roads were paved as the automobile became commonplace. More and more water and sewer systems came under public ownership as private companies found it difficult to maintain high-quality systems and still produce a profit. A number of cities acquired their own electric systems. Full-time city police departments were established, and full-time paid fire brigades began to supplement the efforts of volunteer companies. The first building codes were adopted. Public support for city and county libraries began, largely in response to Carnegie Foundation grants-in-aid for library construction. Public health departments were first established by counties.

The 1920s

The national prosperity of the twenties was reflected in great physical expansion in water and sewer systems (sewer charges date from about 1920), street construction, city halls and auditoriums, and county courthouses. The statewide system of primary highways connecting county seats and other principal cities and towns was established. Schools were built. Zoning was introduced. A wave of new subdivisions, especially in cities, featured paved streets and water and sewer lines, all paid for from special assessments. License taxation also expanded beginning about 1920. City and county bonded indebtedness increased. Indeed, until the mid-1930s, the state allowed cities, counties, and other local governmental units a good deal of freedom in borrowing money and issuing bonds without voter approval for certain "necessary expenses." [In the 1930s, the general requirement of voter approval of general obligation bonds (bonds that pledge the taxing power) was put into the state constitution.]

The Great Depression through World War II

The Great Depression broke the expansion bubble. All services were cut back, and debt service obligations became a heavy burden. With no one to advise or warn them in marketing their securities, many cities and counties had overextended their obligations and saw their credit ratings drop so low that they had to pay crippling rates of interest; eventually some faced bankruptcy. Defaults on bond obligations led the legislature to establish the County Government Advisory Commission in 1927 and to give it the supervisory powers necessary to correct the situation. This commission effected a reversal in local government financing; its successor, the Local Government Commission, remains a bulwark of North Carolina government today. Poor property tax collections threatened continued operation of county road systems and public schools; as a result, the state assumed responsibility for noncity roads in 1931 and for a minimum level of public education in 1933. Independent school districts were abolished.

With all of these changes, state and federal financial aid, virtually unknown until the Depression, began to become a significant source of local government revenue. Federal public works programs built many local government improvements, including the first water and sewer systems in many small towns. Federal aid led to uniform county

responsibility for public welfare and encouraged development of health departments. State aid for city streets and for public libraries appeared in the late thirties. Interestingly, recreation programs and airports also became local government functions during this period, despite the negative economic climate.

1945 to 1959

The postwar period was a time of rapid urban growth and a very rapid expansion of local government facilities, first to make up deficiencies left from the Depression and later to meet new demands. Capital expenditures to increase water supplies and extend water systems, extend sewer systems and build sewage disposal facilities, pave and rebuild city streets, and expand fire protection facilities were very heavy. Service standards for law enforcement and fire protection, solid waste collection, and other primary local government services were raised. Counties continued and expanded their primary role in providing human services to both city and rural residents.

1959 through the 1960s

During the sixties, cities—especially medium-sized and large ones—continued to grow, but their rate of population increase was lower than in any previous decade in the twentieth century. Between 1960 and 1970 the state's municipal population increased by 14.0 percent, compared with a 27.1 percent increase for the previous decade. By 1970 almost 43 percent of the state's population lived inside city boundaries, but the majority of the state's population still relied on counties as their principal local government. As a result of growth, inflation, higher service levels, and public salaries being raised to a level more in line with private-sector salaries, local government expenditures continued to increase during the decade. As the expenditures rose, so did tax receipts, and the expansion of the property tax base came very close to keeping pace with the expenditure trend.

In 1959, the General Assembly adopted a city annexation procedure that is still in place today in modified form. The law allows a city council to annex contiguous territory to the city, if the property (1) meets statutory standards of “urbanly developed,” and (2) if the city can show that it can provide its basic services to the territory. Unlike many states, North Carolina allows such annexations to be carried out by ordinance and without a referendum of the people affected by the change. (See Article 2, “Incorporation, Abolition, and Annexation,” for more information about municipal annexation.)

Thoroughfare planning and land use planning and zoning enabling statutes were also passed in 1959, and both laws still exist in modified form. The thoroughfare statute places joint responsibility for thoroughfare planning and for adoption of a major thoroughfare plan on city councils and the state's Department of Transportation. The planning legislation significantly expands on the prior powers of cities and counties to plan, zone, and regulate land development, and it provides for increased joint and cooperative activities by city and county governments.

Other significant legislation enacted in 1959 included the beginnings of today's extraterritorial jurisdiction (ETJ) statute that gives cities an ability to regulate development outside their boundaries. While smaller cities were not originally given ETJ authority, the extraterritorial jurisdiction law applies statewide today.

In 1967 a Local Government Study Commission was established by the General Assembly. From it came a host of recommendations for both constitutional amendments and statutory changes. All were generally designed to provide increased flexibility and freedom of action for city and county governments. As mentioned below, many of these proposals were subsequently enacted.

The most significant change in city and county revenues in many years came in 1967, when Mecklenburg County was authorized to “piggyback” a one percent local sales and use tax on the state's general sales tax. Since then the rate has increased several times, and the tax is levied in all 100 counties under arrangements by which the proceeds in each county are shared between the county government and the cities within it, with the county commissioners choosing one of two distribution methods. Some portions of the tax are designated for specific purposes, while most of it is available to be budgeted for public purposes as the city or county sees fit. (See Article 13, “Revenues.”)

1970 to the Present

In the time since 1970, major events and changes on the national and global scenes have greatly influenced local government in North Carolina. For example, environmental concerns first flowered in the 1970s. In January 1970, President Richard M. Nixon signed the National Environmental Policy Act, and on April 22 of the same year, the nation marked the first Earth Day. Other legislation soon followed: the Clean Air Act, the Clean Water Act, a Marine Mammal Protection Act, the Endangered Species Act, a Safe Drinking Water Act, a Toxic Substances Control Act, and several more, plus a stream of acts by the several state legislatures, including North Carolina's.

Energy became a major concern worldwide with the oil crisis of the mid-1970s. The importance of energy issues has emerged again in more recent years as known supplies of fossil fuels are consumed. Policy debates continue to be lively over the best “next steps” to take in meeting energy demands.

During the last two decades, the use of computers has become commonplace in both government and business. Advances in data storage techniques and the widespread availability of personal computers, voice mail, e-mail, and the Internet have changed how Americans work in offices, in factories, and on farms, as well as how they relax and what they do for entertainment.

Major world events have also had their influence. Since 1970, the Berlin Wall has come down and the Cold War has ended, with the Soviet Union dissolving into a score of independent nations. Wars in countries such as Afghanistan, Iraq, and Somalia have shaped policy debates in the United States, as has concern over terrorism at home and abroad.

These national and international changes have had a variety of effects on local governments in North Carolina. For example, in the early 1970s North Carolina responded to the increased environmental awareness noted above by adopting numerous state environmental measures, almost all of which required increased financial outlays by local governments. By the 1980s and 1990s environmental concerns and prodding by federal legislation led to more stringent standards for solid waste disposal and extensive efforts at reduction and recycling of solid wastes, as well as stricter standards for drinking water and sewage treatment. All these efforts brought greatly increased costs.

The availability and cost of energy resources is a concern each year when cities and counties redo their budgets, leading some local governments to try innovative approaches to energy consumption such as the use of propane-powered or hybrid vehicles. Because of the dramatic changes in information technology, local governments can now share information with both their citizens and each other in ways that were not possible only a short time ago. Some of the changes in the world political structure have meant that local governments now find themselves on the “front lines” in planning for homeland security and in guarding against the outbreak of public health epidemics and pandemics that may be transmitted here from abroad.

The coming of the global economy, long heralded by futurists, has become a reality for ordinary citizens with the advent of the Internet and the adoption of various trade treaties. This has had both positive and negative effects in North Carolina. Many consumer goods, particularly electronics, have become increasingly inexpensive. At the same time, however, many citizens of the state have lost their jobs as textile, furniture, and other companies have shifted operations overseas or closed altogether.

Intergovernmental relations in the United States have also changed. For example, federal financial support for cities relative to other municipal revenue sources peaked in 1978. Federal revenue sharing, which was introduced in 1972 and then eliminated fourteen years later, is now only a distant memory for those local government officials who even know what it was. Federal budget deficits and the national debt have increased during most of this period, although there was a brief time of surplus during the 1990s. While the relative level of defense expenditures has fluctuated, outlays for entitlements, especially for Social Security, Medicare, Medicaid, and social welfare programs, have grown steadily and sometimes quite rapidly.

Increases in unfunded state and federal mandates relating to social justice, the environment, and other subjects continue to cause concern among city and county officials, even though partial legislative solutions have been enacted. (An “unfunded mandate” is a legal or other requirement that imposes costs on a another level of government—federal on state or local, state on local—without an accompanying appropriation to meet the costs of that obligation.)

Against this national and world background, the structure of North Carolina local governments has also undergone major changes. In the early 1970s, the state statutes governing cities and counties were thoroughly revised and updated. They largely retain this modernized form today. In addition, the state’s constitution was amended in 1973 to provide more flexibility in local government financing.

North Carolina’s overall population continues to expand, with an especially rapid increase in the number of persons of Hispanic background living in the state. Today slightly more than half of all North Carolinians live in the state’s cities and towns. At the same time, many formerly rural counties, particularly in resort and retirement centers but also in other areas, have experienced rapidly growing populations, causing them to increase their emphasis on land use planning and controls.

Both cities and counties have handled growth with attention to both traditional and other services. The availability of public water and sewer has expanded across the state, including the creation of more such services that are operated countywide. Streets and highways have been improved, often with developers putting the initial improvements in place. County expenditures for human services and education have increased in many areas in order to cope with an

increasing population. Both cities and counties have developed ways of serving citizens whose native language is not English. Outlays for the arts, culture, and recreation have also increased, and most of the large cities have either started or assumed responsibility for bus systems.

During the last few decades, cities and counties have made use of local sales and use taxes and of user fees to help them finance their increasingly expensive and complex operations. Despite this change, however, the property tax remains a bulwark of cities' and counties' revenue structures. (See Article 13, "Revenues," and Article 14, "The Property Tax.")

The period between 1970 and the present has seen the continued spread of the council-manager form of city government and the county manager form of county government in North Carolina. Nearly all cities with over 10,000 citizens and many with lower populations use the council-manager form. About 99 of North Carolina's counties currently have a manager (the number varies slightly from year to year), although the powers of county managers, particularly over hiring and firing, may be restricted by the board of county commissioners in ways that are not possible under the city-manager system. In addition, an elected county commissioner can and sometimes does serve as the county manager. This is forbidden for cities.⁸

Changes have also occurred in local governing bodies and in city and county workforces. There has been some movement to some form of district election of city council members and county commissioners, although the at-large method retains great popularity. There have been marked increases in the numbers of women and African Americans elected to city and county offices. Similar changes have taken place in the local government workforce. There have been widespread increases in the numbers of women and minorities, especially in the technical and middle-management areas, as well as in upper-management positions.

The growth of North Carolina's population and the changes in the economy have created an increasing need for city and county governments to cooperate. Hundreds of cooperative arrangements have developed since 1970, varying from one unit contracting with another to the merger of functions. (See Article 10, "Interlocal Cooperation, Regional Organizations, and City-County Consolidation," for a more detailed discussion.)

Other Types of Local Governments: A Brief Note

One of the most important devices for city-county cooperation is the council of governments. These regional entities were authorized by the General Assembly in 1976; and under the impetus of federal grant requirements, councils or other regional agencies were created that together cover all areas of the state. They are collectively known as *lead regional organizations* (LROs); there are presently seventeen regions. North Carolina LROs tend to have more extensive functions and larger budgets and staff than do LROs in other states. While responsibilities vary by region, some key LRO functions are provision of technical assistance to local governments in their regions, economic development efforts, and the administration of grant programs. Although LROs are legally creatures of local governments, they are financed from federal and state funds as well as from local moneys.

Substantially independent school districts in North Carolina were abolished in 1931. The legislature has created instead geographically defined school administrative units overseen by locally elected boards of education with no taxing power. These units are funded by counties and by the state and federal governments. (Elementary and secondary education is discussed in detail in Article 45.)

Special districts and authorities also exist as governmental units in North Carolina, but they have never been as widely used here as elsewhere in the nation. The two most common special districts today are the sanitary district and the rural fire protection district. North Carolina also has several types of authorities, generally in quite limited

8. In the council-manager form of government, the city council makes planning and policy decisions, while leaving the day-to-day administration of city affairs to a professional manager. In jurisdictions without a manager, all decisions concerning the city are entrusted to the council. The manager in cities operating under the council-manager plan has statutory hiring and firing authority for all city employees except those appointed directly by the council. Arrangements are more complex in counties, even with a manager, both for the reasons noted in the text and because of the existence of several boards besides the county commissioners with a role in making policy and choosing employees (e.g., the boards of health, mental health, and social services; the board of education; and the board of elections). For more information, see Article 3, "City and County Governing Boards"; Article 5, "Leading and Governing in Council-Manager Counties and Cities"; and the articles describing county budgeting and particular county-government functions.

numbers—for example, those involved with housing, airports, water and sewer services, and hospitals. (See Articles 27 and 41 for more information.) In other states, a good many more authorities have been created since 1900, principally to operate revenue-producing enterprise activities.

As noted in the discussion above, the 1868 North Carolina Constitution tried to introduce township government into North Carolina, the township being a subdivision of the county with independent governmental powers and responsibilities. However, townships as governmental units were effectively abolished in the state after the 1875 amendments to the state's constitution authorized the General Assembly to eliminate them. Unlike some other states, townships exist today in North Carolina only as convenient administrative areas within the counties, chiefly for tax-listing and sometimes to provide convenient boundary lines in the drawing of census districts and voting precincts. G.S. 153A-19 allows the board of commissioners to establish, abolish, and name townships, as long as specified procedures are followed.

G.S. 153A-122 authorizes counties to adopt ordinances that apply to “any part of the county not within a city.”⁹ Occasionally an ordinance is enacted that applies only within a particular township's unincorporated areas, if the county commissioners find that there is a special issue in that area that needs addressing (for example, a noise problem).

The Current Pattern of Local Government in North Carolina

The discussion of limited-purpose local governments in the previous section points up the need to distinguish North Carolina's current pattern of local government from the patterns found elsewhere. At least ten general distinguishing features can be identified.

1. *Primary state responsibility for financing education and highways.* Two functions for which state and local financial outlays are large—education and highways—are both financed primarily at the state level in North Carolina, and from taxes imposed by the state. All states support these two functions from the state treasury to some extent, but few to the degree that North Carolina does. In most states the local share of financial responsibility is much greater. Moreover, the major local tax is generally the property tax. In North Carolina the property tax is less important in financing these two functions than in the nation at large.
2. *Primary county responsibility for areawide, or “people,” services at the local level.* A number of major services and functions, especially health, education, and welfare, are needed by people in both rural areas and urban areas. In North Carolina the local responsibility for these services and functions is vested in the county, the one type of unit that covers the entire state, and the county commissioners have limited discretion in whether or how much to fund them. In contrast, in other states these services and functions may be carried out at the state level or vested locally in cities, counties, special districts, or a combination thereof.
3. *Primary city responsibility for the high levels of some services that are needed in urban areas.* Fire protection, law enforcement, solid waste collection, water and sewer services, and street maintenance and improvement are all key city responsibilities in North Carolina, much as they are in many states. However, some states are more likely to use local authorities or special districts to provide water and sewer services, fire protection, and the like.
4. *County authority to provide urban types of services.* North Carolina counties have extensive authority to provide water and sewer services, solid waste collection and disposal, fire protection, recreation, and other services needed by citizens. (Counties still have no authority to build or maintain streets.) The county government may, if it chooses, provide urban types of services throughout the county in unincorporated areas as may be necessary. Counties also frequently cooperate with cities in provide some of these services within city limits (see number 6). In some other states urban functions could be undertaken in unincorporated areas only by forming special districts or authorities.
5. *Extensive city and county authority to regulate and direct urban development.* Both cities and counties in North Carolina are broadly authorized to undertake planning programs and to regulate land use through zoning and subdivision control. Most cities have extraterritorial jurisdiction with respect to these controls. Local governmental units in other states also have such powers, but not all states grant such wide authority.

9. The best reading of “any part of the county not within a city” is that a county may adopt ordinances that apply to less than the entire unincorporated area of the county. If the General Assembly intends to require that county ordinances apply countywide, the statute should read “all parts of the county not within a city” (emphasis added).

6. *Flexibility in city-county and multi-unit arrangements.* Cities and counties in North Carolina also have broad authority to take joint or parallel action or to contract with one another for performance of functions that both are authorized to undertake. Such agreements may range from the joint financing of a water line to the merging of tax collection offices.
7. *A model system for major thoroughfare planning.* Under a procedure established in 1959, each municipality and the state's Department of Transportation jointly develop and adopt a major thoroughfare plan for the municipality and its surrounding area. North Carolina's system is a nationally recognized approach that has served as a model for procedures adopted elsewhere.
8. *A state-local revenue system that relies on four main taxes.* The major taxes in North Carolina are the property tax, the general sales tax, the individual and corporate income taxes, and the gasoline tax. The property tax is levied by local governments only, the general sales tax by local and state governments, and the income and gasoline taxes by the state only (the gasoline tax is shared with cities). Rates for the sales and income taxes are average to high compared to rates for the same types of taxes in some other states, whereas rates for the property tax are low compared with those found in many other places. In terms of responsiveness to the economy, the property tax everywhere tends to lag economic growth more than taxes tied directly to economic activity, such as income and sales taxes. Since the property tax is relatively less important in North Carolina than it is elsewhere, while income and sales taxes have greater significance, North Carolina's total revenue structure tends to be somewhat more sensitive than most states' tax programs to changes, positive or negative, in the economic environment.
9. *Reliance on general-purpose local governments.* At the local level in North Carolina, almost all governmental responsibilities have been vested in city and county governments, two general-purpose types of governmental units. The vast majority of expenditures of local governmental units in North Carolina are also made through cities and counties. In many other states, special districts, school districts, and authorities are relatively much more important. The result is that North Carolina's urban areas generally do not have the multitude of overlapping units frequently found elsewhere.
10. *Comprehensive procedures for city-initiated annexation of territory.* In 1959, North Carolina adopted annexation procedures that are based on the general principle that whatever becomes urban in character will become part of a city. This notion is consistent with the idea that essentially all local governmental functions should be provided by either a county government or a city government, according to the allocation of responsibilities between these two types of units described elsewhere in this article. Procedures permitting cities to annex, on their own initiative with no referendum, areas that need municipal services are used to make this approach effective. Without such annexation powers, urban types of services desired by citizens would need to be provided by counties, by special districts, or through the incorporation of new cities by the General Assembly. While the North Carolina procedures are generally considered successful by city officials, they sometimes create much controversy among persons whose property is annexed against their will.

Comparative Roles of City and County Governments in North Carolina Today

As the foregoing discussion indicates, the distribution of governmental responsibilities in North Carolina continues to reflect the pattern developed in colonial days, assigning to city and county governments almost all local government responsibilities. The result is that both city and county governments are now units of local self-government, with broad powers and considerable, though not unlimited, discretion in how they carry out those powers.

Three factors that bear on the present roles of city and county governments help explain how they have evolved. First is the historic role of North Carolina state government, which has been strong since colonial days but even stronger since 1930. Increases in state funding for local government programs in recent decades have been accompanied by a desire on the part of the General Assembly to oversee how that money is spent.

The second key influence on the present roles of city and county governments also stems from the historical assignments previously described. The early pattern called for local functions and services needed by all people to be assigned to county governments and those needed in urban areas to be assigned to city governments. To a very large extent, all functions *have* been assigned to city or county governments; other forms of local government were not used or have been discarded, as were road districts and independent school districts not associated with county or state government.

TABLE 1-1. Chief Services and Functions Authorized for City and County Government in North Carolina**Services and Functions Authorized for Counties Only**

1. Agricultural extension	6. Forest protection	11. Public schools
2. Community colleges	7. Juvenile detention homes	12. Railroad revitalization
3. County home	8. Medical examiner / coroner	13. Register of deeds
4. County surveyor	9. Mental health	14. Social services
5. Drainage of land	10. Public health	15. Soil and water conservation

Services and Functions Authorized for Both Cities and Counties

1. Aging programs	15. Community development	31. Parks
2. Air pollution control	16. Drug abuse programs	32. Planning
3. Airports	17. Economic development	33. Ports and harbors
4. Alcoholic rehabilitation	18. Fire protection	34. Public housing
5. Ambulance services	19. Historic preservation	35. Recreation
6. Animal shelters	20. Hospitals	36. Rescue squads
7. Armories	21. Human relations	37. Senior citizens' programs
8. Art galleries and museums	22. Industrial promotion	38. Sewage collection and disposal
9. Auditoriums and coliseums	23. Inspections	39. Solid waste collection and disposal
10. Beach erosion control and hurricane protection	24. Jails	40. Storm drainage
11. Bus lines and public transportation systems	25. Law enforcement	41. Urban redevelopment
12. Civil defense	26. Libraries	42. Veterans' services
13. Community action	27. Manpower	43. Water
14. Community appearance	28. National Guard	44. Watershed improvement
	29. Off-street parking	
	30. Open space	

Services and Functions Authorized for Cities Only

1. Cable television	4. Gas systems	7. Streets
2. Cemeteries	5. Sidewalks	8. Traffic engineering
3. Electric systems	6. Street lighting	

The third influence has been the changing social and economic conditions and the needs of a population that either (1) is dispersed among a great many small (by national standards) cities, or (2) lives outside a municipality. About half of North Carolina's population lives in a city, while in the nation as a whole a little less than two-thirds of the country's population resides inside city boundaries.¹⁰ Increasingly, however, North Carolina citizens who live beyond the city limits expect essentially the same types of local governmental services as those who live inside cities. The state's response, within the tradition that calls for all functions to be assigned to either cities or counties, has been to authorize counties to perform the same services and functions as were first authorized for cities.

State actions in authorizing cities and counties to provide services and functions needed in an increasingly urban society, and local governments' responses, evolve following a pattern. Four stages may be observed:

1. Urban citizens recognize a need, and the state empowers city governments to provide the service or the function. Often in this stage the initial authorization is for one city or only a few cities under special legislation. Later the authorization is extended to all cities.
2. In accord with changes in the economy, citizens who live outside cities find that they also need the service or the function, and the state authorizes counties to undertake the activity. As with cities in stage 1, a few counties may lead the way by securing special legislation several years before all counties are included in the authorization. For example, county authority to provide water and sewer services and solid waste collection and disposal followed this pattern.

10. U.S. Census Bureau. *2002 Census of Governments*, Vol. 1, No. 1, *Government Organization*, GC02(1)-1, Table 8, "Population of Subcounty General-Purpose Governments by Population-Size Group and State: 2002 (Washington, D.C.: U.S. Government Printing Office, 2002), 12. Available online as a PDF file at <http://www.census.gov/prod/2003pubs/gc021x1.pdf>.

3. Some counties undertake the activity independently, while others join with cities in either administration or financing, or both.
4. The county government assumes full responsibility for the function on a countywide basis.

This four-stage pattern has not been followed exactly for every service or function, but its general outline is evident in the development of many city and county activities. For example, libraries were originally authorized only for cities. Counties were then empowered to support and operate libraries, and joint libraries were frequently created. Today almost all public libraries are county responsibilities at the local level. Solid waste collection and disposal started with cities; now disposal is largely a county function, and county collection activity, as well as collection by private companies, is increasing. Water and sewer services were originally city functions; every county in the state has now participated to some extent in providing them. Parks and recreation services started as city programs, but today are often provided by counties; a few city and county programs have been consolidated into county programs. Fire protection was originally a city service, and that is still true for fire protection provided by departments staffed primarily by full-time firefighters. However, county government support for rural fire protection is widespread.

Both city and county governments now have very broad powers and under the state's Inter-local Cooperation Act, G.S. Chapter 160A, Article 19, may exercise them separately or jointly. The extent of their dual authority appears in Table 1-1. Two-thirds of the services and the functions listed are authorized for both governments. In practice there is less overlap. For example, as noted earlier, libraries and solid waste disposal are now almost exclusively county government activities. City governments, on the other hand, are the only ones significantly involved in urban redevelopment and urban public transportation.

Summary

The North Carolina pattern of local government reflects an arrangement that is flexible and provides for much local control. The pattern has resulted in a relatively simple governmental structure, with few types of local government and limited overlapping jurisdictions and with both state and local financing being important. At least three main roles have been defined for local governments in this state.

The first major function of cities and counties is protection of the individual and the public as a whole. They carry out this responsibility through fire services and law enforcement (police and sheriff's departments); through ordinances that protect the safety of individuals and the public at large from the acts of other persons; and through ordinances that protect the use and value of property.

Local governments are also providers of many other services. Most cities provide a local street system, and some build and operate essential facilities like electric and gas distribution systems. Counties support school systems and health, mental health, and social services programs. Both cities and counties operate water and sewer systems; collect solid waste; sometimes build and operate airports and auditoriums; and contribute to their citizens' cultural and leisure-time activities by supporting libraries, parks, and recreation programs.

Finally, local governments are a major factor in the continued economic development of the community. Cities, for example, share responsibility with the state for the street and highway system that is the key to effective transportation. Cities, counties, and some independent districts and authorities build and operate the water and sewer systems without which urban development is impossible. Local governments often directly support economic and industrial development bodies, sometimes alone and at other times in cooperation with other local governments. Cities, counties, and in some cases special local authorities provide the civic facilities like parking, auditoriums, and airports that make an area attractive as an economic center. Local governments help to improve housing. Through all of these activities, local governments are involved in helping to build attractive, convenient, and appealing communities.

Local governments in North Carolina play a major role in providing the services and functions that are needed in an increasingly urbanized state that also contains large rural areas. They are created by the state legislature, and their powers and functions are authorized by that body. Although many North Carolina cities and counties provide similar kinds of services to other jurisdictions of the same type, each city and to a lesser extent each county has considerable flexibility in determining what functions it will undertake and at what level. Within the limitations prescribed by the state legislature and the courts, city councils and boards of county commissioners have discretion to provide the services and functions that will best serve the needs of their communities.

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