

# North Carolina

## **Introduction:**

Counties derive their authority from the Constitution of North Carolina and Chapter 153/153A of the North Carolina General Statutes. Counties in North Carolina, which are bodies corporate and politic under the state statutory code, have commissions that function as a legislative body and a manager who executes and administers county ordinance and resolution. The state grants county governments a liberal construction of county authority in order to grant them broader ability to execute their powers beyond the letter of the law. County commissions may establish the structure of a county government, including the power to consolidate, create, change, and abolish county offices so long as their action is not specifically prohibited by law. The commission also may assert authority over or exercise any power attributed to local commissions, boards, and agencies by resolution. Counties and cities which are contiguous and wish to consolidate a service or governmental agency may establish a commission to study the problem and propose a method for consolidation, including prospective savings and increased efficiency. North Carolina is a Dillon's Rule state.

## **County Finance:**

The county commission is charged with the sole fiscal responsibility for the county, including establishment of the budget, direction of investment and expenditure, and making appropriations. To that end, the commission may appoint a budget officer to oversee the county finances, expenditures, and revenues.

The county may contract indebtedness in the form of bonds under certain circumstances, including the mitigation of a disaster, the construction of a North Carolina National Guard Armory, and to refund outstanding bonds. In addition, the county may contract debt to pay for certain public improvements, including airports, beach facilities, recreational areas, cemeteries, public safety or health facilities, for county buildings, and for community colleges.

The county has several different routes available to generate revenue. They have a general grant of power from the state to impose taxes specifically authorized

by state legislation. They may levy property taxes not to exceed \$1.50 on every \$100 of taxable property in the county to pay for courts, debt service, deficits, elections, jails, joint undertakings, schools, and social services. Counties may also levy sales taxes and privilege license taxes, the latter to be levied on automobiles, music machines, pawnbrokers, general business licenses, prepared food and drink, and animal ownership. A separate privilege license tax may be sold to recoup cost to the county for the operation of low-level radioactive and hazardous waste facilities.

When providing utilities, the board has the authority to establish a schedule of fees for services rendered by county officials, employees, and public commissions which are permitted or required by law, including utilities, health services, abatement of nuisances, and police or fire protection. The county may make assessments on benefitted property when provided with water service or power and charge the property for the use of said service. When the county deems it necessary to make maintenance improvements, it may make assessments to pay the cost of them.

Certain counties permitted by the state legislature to levy a room occupancy tax may do so. The transient lodging facility must collect the tax along with the fees for the room and turn over the tax revenue to the county. The county may not use the tax to develop a hotel or other transient lodging facility.

As a replacement for ad valorem tax, a county may levy gross receipt tax on the gross receipts from short-term lease or rental vehicles for rent to the general public not to exceed 1.5% of the receipt value. In addition to the short-term lease or rental tax, the county may impose a 1.2% tax on gross receipts of short-term leases or rentals of heavy equipment .

The county may not issue any regulation or ordinance which affects the operation of the North Carolina lottery, an establishment of the State of North Carolina intended to raise revenue.

Counties may pass regulation which allows them to license businesses, occupations, trades, professions, amusement, and entertainment which might prove detrimental to public welfare, health, or safety. The county may specifically regulate any kind

of permanent or itinerant entertainment venue, including circuses, bowling alleys, billiard halls, and dance halls. The ability to regulate includes the ability to make regulations for flea markets and businesses or operations for eleemosynary purposes. The county commission may appoint business inspectors to oversee and inspect articles and products passing through the county.

The county may also regulate any out-door advertisements placed on buildings. Should the county win a suit to remove the out-door advertisement, then the county must pay the fair market value of the advertisement's renewal.

### **Contracts:**

Counties, as corporate bodies, may enter into contracts with other public and private entities to expedite the implementation and execution of county ordinances. This includes contracting for and accepting grants and loans from the state or federal government. When making an improvement that benefits the state or federal government, the county may request that the government in question pay part or all the cost of the improvement. Counties may enter into contracts with private individuals to provide any service or execute any power the county may lawfully provide or execute.

### **Zoning and Land Use:**

The county commission maintains the authority to hold and maintain county lands, as well as make provision for the acquisition of land for public use and the future of county development. The county has the right to exercise eminent domain and condemn land for use for the public good. The county must serve notice and provide just compensation for the taking. The commission must additionally approve any condemnation or taking of land by another local government within the boundaries of the county.

The commission has the statutory right to acquire, including by eminent domain and lease, property in the county by any lawful method for use by the commission or any other county board or agency. This includes the power to acquire property for school improvement and community college improvement. Counties may exercise this power alone or in conjunction with another county or local government with which they wish to jointly operate a county agency or board. Moreover, the county has the power to construct, maintain,

improve, and hold public buildings on county land. Conversely, counties also have the right to dispose of any property not being used by the county or for public good.

The commission may divide the county into zones as may be expedient to the sustainable growth of the county. For purposes of service provision, the county may establish and abolish one such zone, known as a township. The county may set the township boundaries and prescribe a name to the township at will. The county may also establish a planning board to study the county and recommend policies and procedures for ensuring stable, sustainable county growth. The county, pursuant to their recommendation, may establish zones within the county. The county commission may also make ordinances which regulate building code within a zone, but which apply only that particular subdivision of land. The building code may restrict number of stories, height, bulk, lot size occupied, and restrictions or allowances appurtenant to the preservation of public safety and health. To adjudicate minor zoning and building code problems, the county may appoint a board of adjustment and compensate them as they county sees fit.

In addition to a local planning commission, the county may join a regional planning commission which may exercise similar powers, but does so for multiple governmental units simultaneously. This organization can contract with services to study the area which makes up its constituent governments and then make recommendations broadly to all members about a comprehensive, regional development plan. This includes cooperating with all state, federal, and local agencies, as well as making recommendations about zoning to local governments. The regional planning commission may also act as a regional economic development commission to foster growth between counties.

The county may establish a building inspection agency to ensure that ordinances pertaining to building code are followed. This includes ordinances related to wiring and electrical safety, for which the county may establish electrical inspectors. The county may administer a test to such inspectors to ensure their competence. Inspectors are entitled to compensation, to be established by the county commission. The county may operate a building inspection agency jointly with another county if it does not wish to operate one alone.

Counties may suspend their traditional taxing and zoning authority when entering into a development agreement with a developer. The agreement must specify a duration and a specific number of acres, the permitted uses of the property, permitted population density, the public facilities added because of the development, and a description of both historic buildings and stipulations by the local government to preserve public health and welfare.

A county may additionally establish service districts, or a district which encompasses the entire county, to provide services including but not limited to hurricane protection, fire protection, recreation, sewage collection and disposal, solid waste collection and disposal, water supply and distribution, ambulance services, watershed improvement, cemeteries, and law enforcement. The service district shall provide services for a fee or assessment, though the county may levy taxes to finance the districts. The county commission may expand or diminish service districts upon petition of the voters. The county may create research districts for the purpose of gathering data useful to the creation and execution of county ordinance or resolution. An advisory committee shall administer the research district and provide its findings to the county commission. Finally, the county may establish economic development districts in which community colleges may offer classes subsidized by the county to develop the human capital of county residents in the district. This too has an advisory committee to provide information to the county about the progress of the district and future programs. The county may levy a tax to support an economic development district.

The county may rehabilitate dilapidated buildings or blighted areas by engaging in community development programs. This includes development of human capital by educating individuals, preventing crime, and providing adequate childcare and education. The focus of such a program, however, is on acquiring funds from any legal source and expending them in a manner which will encourage the renovation and aesthetic and structural improvement of buildings in the county.

The county has limited power to regulate residential private property. For example, the county may require the annual registration of mobile homes, but may not require a fee for registration. The county may also create low- and moderate-income homes which meet minimum standards of health and

safety for individuals in the county as an affordable alternative. The county may create a housing authority to administer to low- and moderate-income housing, exercising all powers attributed to the county commission, including taxation and contracting, to establish the housing district. The county may not prohibit or enact an ordinance which effectively prohibits the use of solar panels as an alternative to traditional water-heating or electricity generation. They may, however, offer loans for the development of sustainable resources.

Metropolitan areas may establish planning commissions to create a plan for sustainable growth for a metropolitan area. The commission has the authority to lay out plats and project future growth as an advisory aid to the commission in planning future roadways, zones, and building codes. In addition, they may evaluate air-quality districts, compliance with regional compacts, and the future of metropolitan infrastructure. The county commission may have access to these assessments for use in establishing building zones.

Counties have limited authority over conservation efforts, most of which are state requirements. Counties can, however, abate floods by removing manmade and natural obstacles to water flow and may additionally make efforts to abate hurricane damage, beach erosion, and damage associated with stormwater. Counties may also support soil and water conservation work done by federal or state agencies by cooperating with them and providing them with funds. Included in the water conservation work is the power to establish watershed improvement programs to establish and maintain drainage projects and additionally fund water resource development projects. Counties with mountainous areas may enact and enforce mountain ridge protection ordinances, whereas counties with significant timber land may make certain measures to restrict development of protected woodland.

## **Public Safety, Health, and Sanitation**

Counties may establish and maintain a fire department to provide fire protection to the unincorporated county or may divide the county into such districts and provide fire service for each district, at the discretion of the county. County commissions may, upon petition of 35% of the voters, establish a rural fire district. The county may seek voter approval to levy a ten mill tax on property in the district in order to pay for the facilities and

equipment necessary to provide adequate fire protection. The county may contract with an incorporated municipality or existing fire service district to provide extended service to the county or may establish its own fire service with the money raised in the tax levy. County commissions have the power to regulate all flammable, explosive, corrosive, and radioactive substances, including bans.

The county may provide law enforcement services to the residents of the county by providing education and training to law-enforcement agencies or contracting with another governmental entity to do the same. The county may appropriate funds or accept grant money to execute the law enforcement training. They may also establish neighborhood crime watch programs to promote security in businesses and in homes.

The county may appoint a three-member local alcoholic beverage control board pursuant to the North Carolina ABC Act. The board, which serves at the county commission's pleasure, regulates the transport and provision of alcoholic beverages to ABC stores in North Carolina counties and ensures that underage individuals do not purchase alcohol. Such a board may be merged with another board established by a city or another county.

The county may issue rules regulating the sale, possession, and discharge of firearms except when used for hunting. This includes regulation of the display of firearms in public places. The county's authority to regulate firearms extends to non-lethal projectile weapons, like pellet guns.

The county must provide secure custody of persons found in violation of the law, but such facilities must be operated to ensure the health, humane treatment, and welfare of inmates. The county must train employees working at the confinement facility and may accept help from the state in operating the jail and educating its employees. The county may operate a juvenile detention facility in the same place as the county jail so long as the juvenile facility meets state code. Two counties may jointly operate a detention facility if they enter into a contract to do so. For misdemeanor prisoners, the county may establish a satellite jail where they may carry out their active sentences using grant money for a state fund established for the purpose of constructing state jails.

County commissions have the authority to make any ordinance or regulation not specifically prohibited

by federal or state law detrimental to the health, welfare, and safety of its citizens as well as the peace of the county. This includes the power to define and abate nuisances.

To abate nuisances, the county may take civil action against any individual who, after having served notice, fails to abate said nuisance on his or her own. Nuisances include junked motor vehicles on public or private property, which the county may remove at expense to the owner if located on private property, as well as noise, public health nuisances like swimming pools. The county may also restrict the reckless abandonment of junked motor vehicles on public or private property. Public nuisances which are offensive to public morals, including operation of sex shops, houses of prostitution, and houses of gambling among other things, whether on private or public property, are subject to abatement.

Counties may operate animal shelters to abate the public nuisance of stray and abandoned animals. The county must provide adequate feed and accommodation to impounded animals. In cases of cruelty to animals, the county may establish rules about the humane treatment of animals and appoint an inspector to review the case. In addition, the county may establish programs to spay/neuter animals. These programs are eligible for monetary assistance from state funds for operations. The city may contract out operation of the animal shelter and spay/neuter program to private individuals or corporations and may additionally appoint one or more animal control officers to execute their ordinances on animal control. The county may regulate the kind of animal kept on private property in the county, including an outright ban of dangerous animals.

Counties must provide public health services by establishing a health department, a consolidated health department, or cooperating with the state board of health. The local department should be able to assess, diagnose, and investigate community health problems, develop and enforce policies and ordinances targeted at preserving the public health, and provide individuals with public health services. The county may alternately operate a health department with more than one county as a district health department. A health department may assess reasonable fees for provision of public health services. Separate from a health department under the administration of the county commission, the county may create a public health authority as

a public body politic and corporate, headed by a board with the power to provide all public health services of the county health department and may additionally exercise all of the property-acquisition and fee-schedule establishment that the county commission may operate.

County commissions may create municipal public hospitals to provide medical services to the county. Pursuant to this goal, they may acquire property, construct and expand facilities, and hire personnel to staff the hospital. The county may contract out the hospital's operation to another entity or may sell it to a nonprofit corporation to manage. The county may alternately establish a hospital authority to exercise its powers to levy taxes in the hospital service area and condemn land under eminent domain power to use as part of the hospital.

A county may operate ambulance and other emergency medical services in the unincorporated areas of the county. They may also franchise out the entire county or such ambulance service districts as they may create to private or public corporations to provide ambulance services. They may establish a schedule of fees to pay for ambulance service as well. To pay for individual ambulance service, the county may place a lien on the real estate of a recipient of ambulance services.

The county may provide social services to residents, including any service intended to further the health, welfare, education, employment, safety, comfort, and convenience of citizens. Such services may include a county home for aged and infirm persons and foster care or abuse victim support. The county may operate social services itself or may contract with a public or private health or social service entity to provide these services.

The county may alternately establish a board of human services, which consolidates all public health services under one board, including mental health services, substance abuse services, and developmental disability services. The board may exercise any of the individual powers of any of those services, including establishment of human services programs, compliance with federal and state law, and creation of a budget. A consolidated board may additionally support a single database and case management system for human services for all agencies in the county.

Pursuant to protecting the county employees' safety, the county may establish a personnel board with

the power to hear employee grievances and ensure compliance with federal and state laws regarding working conditions. Moreover, the board may develop merit tests to determine eligibility and readiness for promotion for all county employees.

The county may establish regulations concerning the collection and disposal of garbage in the unincorporated areas of the county and on county property. Powers extend to include dictating where, when, and how individuals may dump, leave, or dispose of garbage, litter, and all other refuse. This includes the ability to regulate and dispose of solid waste. Counties may franchise one individual or corporation to have the sole right to remove solid waste within the county or may purchase the equipment and hire the individuals to administer solid waste disposal itself.

County commissions may, at the behest of 51% of property-owning residents of the county or of the proposed district, may create a sanitary district. The sanitary district may exercise its powers as a body politic and corporate to acquire, construct, maintain, operate, improve, and enlarge water delivery systems, sewage systems, and water purification systems. The county may additionally create sanitation authorities with the power to levy taxes to fund the provision of sewage and water services, abate mosquitoes, provide garbage pickup, and assess service fees for all of the above services. Alternately, the county commission or sanitation authority board may contract with municipalities or other counties with existing systems to provide water and sewage service to county residents. If a board levies a tax, it may not exceed 5% of the county's tax rate.

The county may, jointly or in tandem with another county or as a regional entity, acquire, construct, establish, enlarge, improve, maintain, own, and operate a public enterprise within or without the borders of the county. Public enterprises include water supply and distribution, sewage collection and treatment systems, solid waste collection and disposal facilities, off-street parking, public transportation, and storm water management facilities. In the case of solid waste disposal, the county may contract with the transportation department to provide equipment to transport the waste to a disposal facility. The county may require that lots within the county connect to the public water system. Counties may finance these enterprises by levying tax, appropriating funds, accepting gifts, and borrowing money. The county may assess a fee

on any individual or corporation which connects to or uses the services provided by a public corporation.

Counties wishing to operate a joint solid waste management cooperation may also create a regional authority, funded by all constituent governments, and empowered to execute all functions of a local solid waste management public enterprise, just on a larger scale. All constituent counties shall provide funds to the regional authority in an amount determined by the contract which define their membership.

Counties may singly or jointly with other counties incorporate a sewer or water authority to administer sewage collection and treatment facilities and to administer a water purification and distribution system. The authority may issue revenue bonds in anticipation of fees which the authority may assess. The authority may enter into contracts with any public or private entity to provide water and sewer services.

### **Roads and Bridges:**

Counties have limited jurisdiction over all county roads within their political boundaries, though they additionally gain authority to improve, maintain, or construct roads operated by the state transportation department by written contract. Counties may improve state roads at expense to the county without contract from the transportation department. Counties may additionally pay the local share of improvements to residential roads operated by the state road system. In addition, the county may make any improvements the public or legislative body deem necessary to existing county roads, including addition of lanes, addition of parking, and construction of a drainage system. They may also name public roads in the unincorporated areas of the county. When the public no longer uses a road or easement, the county may close it. Counties may make assessments for construction and improvement of roads, including the construction of streetlights and other significant renovations to the county infrastructure and may issue bonds in anticipation of revenue to finance county infrastructure improvement.

Counties may regulate the parking, standing, or idling of private vehicles in any public county buildings or privately owned building with a public driveway, including hospitals, shopping centers, and apartment complexes. In addition, the county may regulate golf cart use of roads and highway.

Counties may contract with surrounding municipalities and counties to develop and execute a coordinated transportation plan suited to the needs of a growing county, including the rehabilitation of rail systems. County authority over transportation systems extends to bridges, ferries, and toll bridge which are not under the control of the transportation department. This includes the right to construct bridges over navigable waters and the right to regulate fishing off of bridges.

County's established police departments may hire traffic control officers to administer and enforce traffic law as from time to time may be necessary. Traffic control officers are appointed by the county police department or sheriff but do not have the power to arrest anyone. Counties have little jurisdiction over state roads, though they may limit the times and number of people that may gather on a state road in their jurisdiction. County police and State Highway patrolmen may cooperate in any way necessary to enforce state traffic law.

Counties may operate an airport, which includes the acquisition of land for and subsequent construction of an airfield, landing strip, and airport facilities. Alternately, the county may operate the airport in conjunction with a city or town. Counties have the power to regulate existing airports, including establishing fees and promulgating rules about buildings which may be placed on airport land. Counties may appropriate funds to improve, acquire, construct, or expand the airport and may additionally receive federal grant money for the same purpose.

### **Recreation, Leisure, and Culture:**

County commissions may appropriate funds to erect, maintain, and protect monuments placed on the courthouse square to the Confederate dead or honored servicemen killed in combat. Alternately, they may appropriate funds to give to a state or nonprofit organization erecting a monument.

The county may provide monetary assistance to any nonprofit historical society, museum, or other similar organization. The county commission, library, or school board may make space available for the display of objects pertaining to the county's history and tradition.

Counties may take action as a municipal corporation would when financing, creating, establishing, constructing, improving, or enlarging art galleries

and museums and auditoriums, coliseums, convention centers, and civic centers. The county may operate said public improvements for the benefit of its citizens.

Because of the public's interest in information, the state authorizes counties to establish public library systems, set aside property, construct and improve facilities and acquire library materials. The county may establish a board to oversee the library and establish policies and programs to further use of the library by the public. The county may fund the library through general appropriations and also retain the title deed to all library property. Any resident of any county is entitled to free use of the library system. The library may be operated singly or jointly with other counties.

### **Alternative Forms of Government:**

The commission may by resolution adopt or discontinue the county-manager form of government. Adoption of the county-manager plan empowers the commission to appoint a manager, to name a commission member to serve as the manager, or to confer on some other county employee the duties of

the county manager. If the commission chooses not to adopt or discontinues the county-manager plan, then the commission may exercise all hiring and firing powers and charge department heads with the execution of county ordinances.

Counties and cities which are contiguous and wish to consolidate a service or governmental agency may establish a commission to study the problem and propose a method for consolidation, including prospective savings and increased efficiency. If the proposed consolidation or charter is met with voter approval and approval from the General Assembly, the governments may proceed in consolidating the service, governmental function, or governments in question.

North Carolina allows counties and the largest municipality in the county to merge to form a single government entity, recognized as both a municipal corporation and a county, which may exercise all the right attributed to both bodies separately. The former city may remain an "urban service district" in which the city-county government continues to provide all the services provided prior to consolidation.