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CHARTER

CITY OF

STATHAM, GEORGIA

NORTHEAST GEORGIA AREA PLANNING AND DEVELOPMENT COMMISSION

CHARTER

A BILL

TO BE ENTITLED

An Act to provide a new charter for the City of Statham, Georgia; to provide that this Act shall repeal and replace the Charter provided by an Act approved August 12, 1910 (Ga. Laws 1910 p. 1165) as amended by an Act approved August 8, 1916 (Ga. Laws 1916 p. 967) and an Act approved August 15, 1922 (Ga. Laws 1922 p. 977); to provide for definitions; to provide for city limits; to provide for corporate powers; to provide that all ordinances, by-laws, rules and regulations in force in the City of Statham, which are not inconsistent with this Act, shall remain in force until amended or repealed by the Mayor and Council; to provide for the registration of electors; to provide for election of the Mayor and Councilmen; to provide for certain restrictions on candidates and their supporters; to provide for penalties; to provide that the Mayor and five councilmen shall compose the City Council; to provide that all corporate legislative and other powers of the city, except as otherwise provided by this Act, shall be vested in the City Council; to provide for the compensation and expenses of the Mayor and Councilmen; to provide that the Mayor shall preside at meetings of the Council and shall have certain other powers and duties; to provide that the Mayor shall have power to veto legislation; to provide that the Mayor shall have power to appoint a city administrator; to provide for the election of a Vice Mayor by the Council from its membership; to provide for the filling of vacancies in the Office of Mayor and

Councilmen; to provide for certain restrictions on Councilmen; to provide that the office of Councilman shall be declared vacant under certain circumstance; to provide for a City Clerk; to provide for City legislation and the procedures connected therewith; to provide for rules and regulations; to provide for the organization of the city government; to provide for city planning and the procedure connected therewith; to provide for the administrative duties of the Mayor; to provide for a City Attorney; to provide for a Mayor's Court; to provide for the powers and jurisdiction of said court; to provide for certain officers and employees; to provide for official bonds; to provide that certain political activity shall be prohibited; to provide for penalties; to provide for the fiscal administration of said City and the procedures connected therewith; to provide for the assessment of property for taxation and the procedures connected therewith; to provide for a tax levy; to provide for tax due dates and tax bills; to provide for the collection of delinquent taxes; to provide for special assessments; to provide for disbursements by checks; to provide for an official depository; to provide for restrictions on actions for damages against the city; to provide that the Counc: may use the provisions of general laws; to provide for penalties; to provide the procedures connected with the foregoing; to provide for severability; to provide for a referendum; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I.

CHARTER, DEFINITIONS, CITY LIMITS AND CORPORATE POWERS.

Section 1.01. Charter. This Act shall constitute the whole charter of the City of Statham, Georgia, repealing and replacing the charter provided by an Act approved August 12, 1910 (Ga. Laws 1910, p. 1165), as amended by an Act approved August 8, 1916 (Ga. Laws 1916, p. 967) and an Act approved August 15, 1922 (Ga. Laws 1922, p. 977). The City of Statham, Georgia, in the County of Barrow, and the inhabitants thereof, are hereby constituted and declared a body politic and corporate by the name and style of City of Statham, Georgia, and by that name shall have perpetual succession, may sue and be sued, plead and be impleaded, in all the courts of law and equity, and in all actions whatsoever, and may have and use a common seal and change it at pleasure.

Section 1.02. Definitions. As used in this Act the following words and terms shall have the following meanings:

(a) "City" shall mean the City of Statham, Georgia.

(b) "Councilman" shall mean a person elected to the city council as provided in this Act.

"Member of the council" shall mean the mayor and each councilman.

(c) "Non-partisan" shall mean without any designation of candidates and members or candidates of any state or national political party or organization.

(d) "At large" shall mean the entire city, as distinguished from representation by wards or other districts.

(e) "Public way" shall mean any land used by the public as a passageway, including but not limited to streets, roads, highways, expressways, freeways, boulevards, avenues, parkways, alleys, lanes, sidewalks, walks, bridges, viaducts, subways, underpasses, tunnels, and other thoroughfares, and including the right-of-ways of such public ways.

(f) "Code" shall mean any publication or compilation of rules, regulations, specifications, standards, limitations, or requirements by an agency of the Federal or State government, or by a municipality, or by a trade association or other organization generally recognized as an authority in its field of activity.

(g) "Agency" shall mean any office, court, utility, board, commission, institution, or other organization in charge of or administering any public function or municipal affair of the city.

(h) "Officer" shall mean and include the mayor, councilmen, member of boards and commissions, and any other persons classified as public officers by the laws or judicial decisions of this State. An "officer" as herein defined shall fill an "office", and an "employee" shall fill a "position of employment".

(i) "Elector" shall mean a person residing within the city who is qualified to vote therein.

(j) The masculine shall include the feminine, and the singular shall include the plural and vice versa.

(k) The word "shall" is mandatory; "may" is permissive.

Section 1.03. City limits. The boundaries of the city shall be as follows:

"BEGINNING at a concrete marker located at what was the center of the old Seaboard Airline Railway depot and extending one mile in all directions."

Section 1.04. Corporate powers. The corporate powers of the city, to be exercised by the city council, shall include the following:

(a) To levy and to provide for the assessment and collection of taxes on all property subject to taxation.

(b) To levy and to provide for the collection of license taxes on privileges, occupations, trades, and professions. A collection fee of one dollar ($1.00) may be added to each such license tax.

(c) To levy and to provide for the collection of registration fees on automobiles and trucks owned by residents of the city, and also on automobiles and trucks owned by non-residents and operated within the city with any regularity. Such registration fees on trucks or automobiles may be graduated according to their tonnage capacities, weight or horsepower.

(d) To appropriate and borrow money to provide for payment of the debts of the city, and to authorize the expendi-

ture of money for any municipal purpose or matter of national or state interest.

(e) To acquire, dispose of, and hold in trust or otherwise any real, personal or mixed property, inside or outside the city.

(f) To condemn property, inside or outside the city, for present or future use under the applicable provisions of Title 36 of the Code of Georgia, 1933, or under other applicable public acts.

(g) To acquire, operate and dispose of public utilities, subject to the provisions of applicable general laws.

(h) To grant franchises or make contracts for public utilities and public services. The council may prescribe the rates, fares, regulations, and standards and conditions of service applicable to the service to be provided by the franchise grantee or contractor.

(i) To regulate the rates and services of public utilities in so far as not in conflict with such regulation by the Public Service Commission or other similar State or Federal agency having jurisdiction in such matters.

(j) To provide for the acquisition, construction, building, operation and maintenance of public ways, parks, public grounds, cemeteries, markets and market houses, public buildings, libraries, sewers, drains, sewage treatment, airports, hospitals, and charitable, educational, recreational sport, curative, corrective, detentional, penal and medical institutions, agencies and facilities, and any other public improvements, inside or outside

the city, and to regulate the use thereof, and for such purposes property may be taken under the applicable provisions of Title 36 of the Code of Georgia of 1933 or other applicable public acts.

(k) To require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots of lands. A real estate owner shall be liable for any injury or damage sustained by reason of a defective sidewalk adjoining his lot or land and the city shall not be liable for any such injury or damage, if a city officer or employee, authorized to do so by the city council, at least ten days prior to occurrence of the injury or damage served him with personal notice or sent a notice by ordinary mail to the owner of record that the sidewalk should be repaired and placed in a safe condition.

(l) To prescribe standards of health and sanitation and to provide for the enforcement of such standards.

(m) To provide for the collection and disposal of garbage, rubbish and refuse. Charges may be imposed to cover the costs of such services which, if unpaid, shall constitute a lien against any property of persons served, which lien shall be second in priority only to liens for county and city property taxes and shall be enforceable in the same manner and under the same remedies as a lien for city property taxes.

(n) To define, regulate and prohibit any act, practice, conduct, or use of property, detrimental, or likely to

be detrimental, to the health, morals, safety, security, peace, convenience, or general welfare of inhabitants of the city.

(o) To establish minimum standards for and to regulate building construction and repair, electrical wiring and equipment, gas installation and equipment, plumbing, and housing for the health, sanitation, cleanliness and safety of inhabitants of the city, and to provide for the enforcement of such standards.

(p) To regulate and license weights and measures.

(q) To provide that persons given jail sentences in the mayor's court shall work out such sentences on the streets or any public works of the city or in a city workhouse established for this purpose, as provided by ordinance; or the council may provide for the commitment of city prisoners to the county workhouse or jail by agreement with the appropriate county officers.

(r) To regulate and license or prohibit the keeping or running at large of animals and fowls and to provide for the impoundment of same in violation of any ordinance or lawful order and for their disposition, by sale, gift, or humane killing, when not redeemed as provided by ordinance.

(s) To order any railroad operating within the city to construct viaducts or underpasses to eliminate grade crossing or to pave and maintain grade crossings in a smooth and safe condition. The city shall pay the costs of constructing approaches to the railroad's right-of-

way line. Each day's failure of the railroad to comply with such an order after a reasonable time has elapsed shall be a misdemeanor and a separate offense, and shall be punished by a fine not to exceed fifty dollars ($50.00) in the mayor's court for each offense. If the railroad refuses to do such work, the city may have the work done and may collect the costs thereof from the railroad by the use of all legal and equitable remedies available under the law.

(t) To regulate and license vehicles operated for hire in the city, to limit the number of such vehicles, to require the operators thereof to be licensed, to require public liability insurance of such vehicles in amounts prescribed by ordinance, and to regulate and rent parking spaces in public ways for the use of such vehicles.

(u) To levy and provide for the collection of special assessments for public improvements.

(v) To provide that the violation of any ordinance, rule, regulation or order shall be punishable as a misdemeanor.

(w) To exercise and enjoy all other powers, functions, rights, privileges and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the city and its inhabitants, and all implied powers necessary to carry into execution all powers granted in the Act as fully and completely as

if such powers were fully enumerated herein. No enumeration of particular powers in this Act shall be held to be exclusive of others nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to cities under the Constitution or applicable public Acts of the State.

Section 1.05. Ordinances. All ordinances, by-laws, rules and regulations now in force in said city, not inconsistent with this Act, are hereby declared valid and of force until amended or repealed by said mayor and councilmen of said city.

ARTICLE II.

REGISTRATION OF ELECTORS: MAYOR AND COUNCIL

Section 2.01. Registration of Electors. Any qualified and registered elector of Barrow County who has resided within the corporate limits of the City of Statham at least six months immediately preceding any city election shall be deemed to be a qualified and registered elector of the City of Statham for any such election; provided, however, that any such elector must have registered to vote in Barrow County at least 30 days prior to the date of any such city election in order to be eligible to vote in such election.

Section 2.02. Voting List. To carry out the provisions of Section 2.01, the city clerk of the City of Statham, or in his absence or disqualification for any reason, any city official or employee so designated by the city council shall be responsible for obtaining a voting list of qualified and registered electors

of the City of Statham from the Board of Registrars of Barrow County. Said voting list shall be obtained by said city clerk or other such city official or employee from said Board of Registrars within 20 days immediately preceding any city election and shall be complete and accurate as of the 30th day preceding such election.

Section 2.03. Compensation to County. The City of Statham shall compensate Barrow County for the work of the Board of Registrars of said county in preparing the voting list for the City of Statham in accordance with the provisions of Code Section 34-636, subsection (b), of the Code of Georgia of 1933.

Section 2.04. Election of Mayor and Councilmen. On the second Monday in June, 1967, a non-partisan election shall be conducted by the city election managers, at the same hours and places for holding general elections, to elect a mayor and five councilmen from the city at large. Any elector, who is 21 years of age or over, may be qualified as a candidate for mayor or councilman by submitting to the city clerk a notice of his candidacy at least fifteen days prior to said election and by the payment of a qualifying fee of * ~~$25.00~~ 50 $360.00 in the case of candidates for mayor and * ~~$10.00~~ 25 $180.00 in the case of candidates for councilman. Said qualifying fee shall be paid to the city clerk at the time the notice of candidacy is filed, and said city clerk shall issue a receipt therefor. Said qualifying fees shall be paid into the general funds of the city by said city clerk.

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At said election held on the second Monday in June, 1967, each elector shall be entitled to vote for one candidate for mayor and five candidates for councilman. The candidate for mayor receiving

of the City of Statham from the Board of Registrars of Barrow County. Said voting list shall be obtained by said city clerk or other such city official or employee from said Board of Registrars within 20 days immediately preceding any city election and shall be complete and accurate as of the 30th day preceding such election.

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At said election held on the second Monday in June, 1967, each elector shall be entitled to vote for one candidate for mayor and five candidates for councilman. The candidate for mayor receiving

the highest number of votes, and the two candidates for councilman receiving the highest number of votes shall be elected for terms of four years. The three candidates for councilman receiving the next highest number of votes shall be elected for initial terms of two years, but all subsequent terms shall be four years as hereinafter provided.

On the second Monday in June, 1969, and each four years thereafter an election shall be held for the election of three councilmen, and on the second Monday in June, 1971, and each four years thereafter an election shall be held for the election of the mayor and two councilmen. Said elections shall be held in the same manner and under the same conditions as the election held on the second Monday in June, 1967, except that each elector shall vote for three councilmen or for mayor and two councilmen, as the case may be, in such future elections. No informality shall invalidate any such election provided it is conducted fairly and in substantial conformity with the requirements of this Act and the general laws of the State.

1991 House Bill 202 Terms of office will begin at 1st January Meeting Code 21-3-61

The terms of office of the mayor and councilmen shall begin at 12:01 a.m. on the first Monday in July following their election, and they shall serve until their successors have been elected and qualified. The terms of office of the present mayor and all councilmen of the city shall end at 12:01 a.m. on the first Monday in July, 1967.

Section 2.05. Restrictions on candidates and their supporters. If a candidate or any person in his behalf directly or indirectly gives or promises to any person or persons any office, employment, money, benefit, or anything of value in connection with his

candidacy, upon conviction thereof he shall be punished by a fine of not more than one hundred dollars ($100.00), or by imprisonment not to exceed one year, or by both such fine and imprisonment, and shall thereafter be ineligible to hold any office or position of employment in the city government for a period of five years.

Section 2.06. City Council. The mayor and five councilmen shall compose the city council, in which is vested all corporate legislative and other powers of the city, except as otherwise provided in this Act. The council shall be the final judge of the election and qualifications of its members. The council shall hold regular public meetings at a stated time and place, as provided by ordinance. The Council shall meet in special session or written call of the mayor or any two councilmen and served on the other members personally or left at their residences at least twelve hours in advance of the meeting, but such notice of a special meeting shall not be required if the mayor and all councilmen are present when the special meeting is called. Only the business stated in the written call may be transacted at a special meeting, except by unanimous consent of all members of the council. The council shall exercise its powers only in public meetings. A majority of the council shall constitute a quorum. The council may by ordinance adopt rules and by-laws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent members. The council may subpoena and examine witnesses, to order the production of books and papers, and to have the same powers as a circuit court to punish for refusal to obey such an order or subpoena, or for disorderly or

contemptuous behavior in the presence of the council.

Section 2.07. Compensation: Expenses. The council may determine by ordinance the annual salary of the mayor and councilmen, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of the mayor and councilmen following the next regular election, provided that such regular election follows the adoption of such ordinance by at least six months. The mayor and councilmen shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.08. Powers and Duties of Mayor.

(a) Mayor as presiding officer. The mayor shall preside at meetings of the council, shall have a vote only in case of a tie, shall be the ceremonial head of the city, shall sign ordinances and resolutions on their final passage, shall sign deeds, bonds and contracts when authorized by the council to do so, shall be the officer to accept process against the city, and shall perform other duties imposed by this Act and ordinances not inconsistent with this Act.

(b) Mayor's power to veto Legislation. Within 96 hours after the adjournment of any council meeting, the city clerk shall present to the mayor the record of proceedings of the meeting and all ordinances and resolutions adopted at the meeting. The mayor, within seven days of receipt of an ordinance or resolution, shall return it to the city clerk with or without his approval, or with his veto. If an ordinance or resolution is

vetoed, the mayor shall attach a written statement explaining the reasons for his veto. Ordinances or resolutions vetoed by the mayor shall be considered at the next regular meeting of the council, and the council may pass the ordinance over the veto by the affirmative vote of four of its members. The effective date of an ordinance passed over the mayor's veto shall not be less than fifteen days after the date of final passage. The mayor's veto power shall extend to disapproving or reducing individual appropriation items in the budget or any ordinance or resolution, except appropriations for auditing or investigating any part of the executive branch. The mayor shall not have the power to veto any emergency ordinance.

(c) City Administrator. The mayor shall have the power at his discretion to appoint a city administrator who shall serve at the mayor's pleasure. Said city administrator shall be the principal managerial aide to the mayor and shall perform such duties as may be assigned to him by the mayor.

Section 2.09. Vice-mayor. The council at the first regular meeting, after the newly elected councilmen have taken office following each election, shall elect from its membership a vice-mayor for a term of two years. In the event that no decision is reached at such first regular meeting, the council shall, within five ballots to be taken within ten days following such meeting, elect the vice-mayor, otherwise the councilman who received the

the duties of the office of _____."

3-104 Bonds

Except as otherwise provided by law, the mayor and council may require any department head, city official, or employee, before entering upon the discharge of his duties to give good and sufficient bond in any amount decided by the mayor and council. Said bond shall be payable to the City of Statham for the faithful performance of said duties and to secure against corruption, malfeasance, misappropriations, or unlawful expenditures in office. Said surety bonds shall be obtained from a surety company licensed to do business in the State of Georgia and approved by the mayor and council. The premiums thereon shall be paid by the city.

3-105 Compensation

Each officer and employee of the city shall receive such compensation as may be provided from time to time by resolution.

ARTICLE II: THE MAYOR AND CITY COUNCIL GENERALLY

3-201 Qualifications for office

Any person whose principal place of residence is within the corporate limits of the city and who is both a qualified voter of the city and at least 21 years of age at the time of election shall be eligible for the office of mayor or councilman. Should the mayor or any councilman cease to maintain his principal place of residence within the city during his term of office, his office shall thereby become vacant.

3-202 Vacancies

In case of a vacancy in the office of mayor or councilman, the council shall appoint a qualified person to fill the position for the remainder of the unexpired term, provided it does not exceed six (6) months. If the unexpired term exceeds six months, a special election shall be held to fill the vacancy on the third Tuesday following the vacancy. The city clerk shall cause notice of the holding of such election, including the time and purpose thereof, to be published once a week for two weeks in a newspaper of general circulation in the county.

3-203 Meetings

The city council shall hold regular meetings on the second Tuesday of each month at the hour appointed by the mayor and council. All meetings at which official actions are to be taken shall be open to the public.

highest number of votes when he was last elected shall become vice-mayor. The vice-mayor shall perform the duties of the mayor during his absence or inability to act, and shall fill out any unexpired term in the office of mayor, in which case a new vice-mayor shall be elected by majority vote of the council.

Section 2.10. Vacancy in office of mayor or councilman. A vacancy shall exist if the mayor or a councilman resigns, dies, moves his residence from the city, has been continuously disabled for a period of six months so as to prevent him from discharging the duties of his office, or is convicted of malfeasance or misfeasance in office, or felony, a violation of the Act or a violation of the election laws of the State. The council shall appoint a qualified person to fill such a vacancy for the remainder of the unexpired term, provided such unexpired term does not exceed six months. If a tie vote by the council to fill a vacancy is unbroken for fifteen days, the mayor, or vice mayor in case of a vacancy in the office of mayor, shall appoint a qualified person to fill the vacancy. If a vacancy occurs in the office of mayor or councilman more than six months before the expiration of the term of office, a special election shall be held by the city election managers on the third Tuesday following occurrence of the vacancy, at which election a mayor or councilman, as the case may be, shall be elected to serve the remainder of the unexpired term of the vacant office. Candidates in such a special election shall be nominated as provided in Section 2.04 of this Act.

Section 2.11. Restrictions on Councilmen. The council shall act in all matters as a body, and no member shall seek individually

to influence the official acts of the mayor or any other officer or employee of the city, or to direct or request the appointment of any person to, or his removal from, any office or position of employment, or to interfere in any way with the performance of duties by the mayor or any other officer or employee. The council shall deal with the various agencies, officers and employees of the city, except boards of commissions authorized by this Act, solely through the mayor, and shall not give orders to any subordinates of the mayor, either publicly or privately. Nothing herein contained shall prevent the council from conducting such inquiries into the operation of the city government and the conduct of the city's affairs as it may deem necessary. The office of any councilman violating any provision of this section shall immediately become vacant upon his conviction in a court of competent jurisdiction.

Section 2.12. City Clerk. The mayor shall appoint a city clerk, who shall be responsible for keeping and preserving the city seal and all records of the council; attending meetings of the council and keeping a journal of its proceedings at such meetings, including the names of members present and absent, the vote of each member on each question, each motion considered, and the title of each resolution or ordinance considered; preparing the certifying copies of official records in his office, for which fees may be prescribed by ordinances; and performing such other duties as may be required by the council or mayor.

Section 2.13. City Legislation. Any action of the council having a regulatory or penal effect, relating to revenue or the expenditure of money, or required to be done by ordinance under

this Act, shall be done only by ordinance. Each motion, resolution and ordinance shall be in written form before being introduced. The affirmative vote of at least three members of the council shall be required to pass any motion, resolution or ordinance, including two readings in the case of an ordinance. Each ordinance, before being adopted, shall be read at two meetings not less than one week apart, and shall take effect ten days after its adoption, except that, where an emergency exists and the public safety and welfare require it, an ordinance containing a full statement of the facts and reasons for the emergency may be made effective upon its adoption if approved by at least four members of the council. No ordinance relating to a franchise, exclusive contract, or other special privilege shall be passed as an emergency ordinance. Amendments of ordinances and resolutions or parts thereof shall be accomplished only by setting forth the complete section, sections, subsections in their amended form. A code may be adopted by an ordinance which contains only a reference to its title, date and issuing organization, and the city clerk shall file a copy of the code in his office. The city shall furnish a copy of any such code to any person for a reasonable fee. After adoption of a code or ordinances, as provided in this section, the city clerk shall number ordinances consecutively in the order of their final adoption and shall copy them into a permanent record book used solely for this purpose and the city clerk shall do likewise for resolutions, using a separate series of numbers and a separate record book. The original copies of all ordinances, resolutions and motion shall be filed and preserved by the city clerk. An abstract of the essential provisions of each ordinance shall be

posted in a public place within ten days after its adoption, except that only the title shall be so posted of a code adopted by reference as provided in this section.

Section 2.14. Rules and Regulations. The council may by ordinance authorize officers and agencies of the city to promulgate formal rules and regulations within their respective jurisdictions, subject to such restrictions and standards of guidance as the council may prescribe. No such formal rule or regulation shall take effect until it is filed with the city clerk, who shall file and preserve the original copy in his office. Amendments of such rules and regulations shall be accomplished only by setting forth complete sections or subsections in their amended form.

ARTICLE III.

ORGANIZATION AND PERSONNEL

Section 3.01. Organization. The city government shall be organized into a department of general government, Department of Parks and Recreation, Police Department, Fire Department, Departmen of Public Works and Planning Department as provided in Section 3.02, unless and until otherwise provided by ordinance, but no such ordinance shall be adopted until after the council has received and considered the written recommendations of the mayor. The council by such ordinances may establish, abolish, merge, or consolidate offices, positions or employment, departments, and agencies of the city, may provide that the same person shall fill any number of offices and positions of employment, and may transfer or change the functions and duties of offices, positions of employment, departments, and agencies of the city, subject to the following exceptions: (a) the number of members and authority

of the council, as provided in this Act, shall not be changed; (b) all officers and employees of the City, except as otherwise specifically provided in this Act, shall be appointed and removed by and shall be under the direction and control of the mayor; (c) the office of mayor shall not be abolished, nor shall his powers, as provided in this Act, be reduced.

Section 3.02. Planning. (a) Planning Director. There shall be a planning department headed by a director who shall be appointed by the mayor. The planning director shall have the following responsibilities:

(1) To advise the mayor on any matter affecting the physical development of the city;

(2) To formulate and recommend to the mayor a comprehensive plan and modifications thereof;

(3) To review and make recommendations regarding proposed council action implementing said comprehensive plan pursuant to subsection (d) of this Section; and

(4) To advise the city planning board in the exercise of its responsibilities and in connection therewith to provide necessary staff assistance.

(b) City Planning Board. There shall be a city planning board consisting of five members appointed by the council for terms of three years from among the qualified voters of the city. Members of the board shall hold no other city office. The board may make recommendations to the mayor and the city council on all matters affecting the physical development of the city, shall be consulted on the comprehensive plan and the implementation thereof as provided in subsections (c) and (d) of this section, and shall

exercise all other responsibilities as may be provided by law.

(c) Comprehensive Plan. The council shall adopt, and may from time to time modify, a comprehensive plan setting forth in graphic and textual form policies to govern the future physical development of the city. Such plan may cover the entire city and all of its functions and services or may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire city and all of its functions and services.

Upon receipt from the mayor of a proposed comprehensive plan or proposed modification of the existing plan, the council shall refer such proposal to the city planning board, which shall within a time specified by the council report its recommendations thereon. After receipt of the recommendations of the planning board, the council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt it by resolution with or without amendment.

The comprehensive plan shall serve as a guide to all future council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.

(d) Implementation of the Comprehensive Plan. The council may by ordinance adopt land use and development regulations including but not limited to an official map and zoning and subdivision regulations.

The council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) The alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, and (2) the achievement of the most

appropriate use of land.

Before acting on any proposed ordinance concerning land use and development regulations, urban renewal or expenditures for capital improvements, where such ordinance refers to a matter covered by the comprehensive plan, the council shall refer the proposal to the city planning board, which shall within a time specified by the council and prior to the public hearing on the proposed ordinance report its recommendations thereon. Upon adopting any such ordinance, the council shall make findings and report on the relationship between the ordinance and the comprehensive plan and, in the event that the ordinance does not accord with the comprehensive plan, the plan shall be deemed to be amended in accordance with such findings and report.

(e) Board of Adjustment. The council shall by ordinance establish a board of adjustment and shall provide standards and procedures for such board to hear and determine appeals from administrative decisions, petitions for variances in the case of peculiar and unusual circumstances which would prevent the reasonable use of land and such other matters as may be required by the council or by law.

Section 3.03. Administrative duties of Mayor. The mayor shall be the executive head of the city government, responsible for the efficient and orderly administration of the city's affairs. He shall be responsible for the enforcement of laws, rules and regulations, ordinances and franchises in the city, and the city attorney shall take such legal actions as the mayor may direct for such purposes. He shall have authority to appoint, promote, demote, transfer, suspend and remove all officers and employees and to

direct and control their work, except as otherwise provided in the Act. He shall submit to the Council annual budgets, reports, and such other information as he may deem necessary or the council may require. He shall have authority to make allotments of funds within the limits of appropriations and no expenditure shall be made without his approval. If no other employee is designated as purchasing agent he shall act as purchasing agent for the city. He may conduct inquiries and investigations into the conduct of the city's affairs and shall have such other powers and duties as may be provided by ordinances not inconsistent with this Act.

Section 3.04. City Attorney. The mayor shall appoint a city attorney, together with such assistant city attorneys as may be authorized by ordinance. The city attorney shall be responsible for representing and defending the city in all litigation in which the city is a part, shall be the prosecuting officer in the mayor's court, and shall advise the council, mayor and other officers and employees of the city concerning legal aspects of the city's affairs.

Section 3.05. Mayor's Court. A mayor's court, presided over by the mayor, or in his absence, by the vice mayor, is hereby established, which shall have jurisdiction over violations of this Act and ordinances of the city. The mayor's court shall also have concurrent jurisdiction with that of a justice of the peace over offenses against the criminal laws of the State committed within the city. The mayor, in his capacity as judge of said court, shall have authority to impose fines, costs, forfeitures, and imprisonment in a jail or workhouse, as provided in this Act and by ordinance, and except as provided in this Act, his authority and powers and

the procedure in the mayor's court shall be the same as provided by State law for a justice of the peace. Appeals from the mayor's court shall be to the Superior Court of Barrow County in the same manner as appeals from the courts of ordinary. Warrants, subpoenas and other processes of the mayor's court shall be executed by police officers of the city, who for such purposes shall have the same powers and authority of a sheriff in executing process of a superior court. The city clerk shall act as a clerk of the mayor's court.

Section 3.06. Other officers and employees. After receiving the written recommendations of the mayor, the council may establish by ordinance offices and positions of employment and may abolish, combine or modify them in accordance with such recommendations. The powers and duties of such offices and positions of employment may be defined by ordinance, and if not defined by ordinance shall be defined in formal rules and regulations issued by the mayor as provided in Section 2.14 of this Act, but in any event the mayor may require officers and employees of the city, except those appointed by and accountable to the council, to perform such additional duties as may be considered necessary by him for the proper and efficient conduct of the city's affairs. Public utilities owned or operated by the city may be under the supervision of the mayor and employees appointed by him or may be under boards or commissions appointed by and answerable to the council, as provided by ordinance. The salaries of all employees of the city shall be fixed by ordinance under a pay plan applying uniformly to all employees having similar responsibilities and doing like work.

Section 3.07. Appointment, suspension and removal of employees. All employees of the city, except as otherwise provided in this Act, shall be appointed, promoted, demoted, transferred, suspended and removed by the mayor. During a suspension an employee's salary may be reduced or eliminated, as determined by the mayor. Before suspending for more than thirty days or removing an employee, the mayor shall serve the employee with a written notice of intention to suspend or remove him, containing a clear statement of the grounds for such proposed action and notification that the employee may appeal to the city council by filing, within ten days, with the city clerk written notice of his intention to do so. The decisions of the city council in cases of such appeals by employees shall be final.

Section 3.08. Oath of office. Before a person takes any office in the city government, he shall take, subscribe to, and file with the city clerk the following oath or affirmation:

> "I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Georgia; that I will, in all respects, observe the provisions of the charter and ordinances of the City of Statham, and that I will faithfully discharge the duties of the office of _____."

Section 3.09. Official Bond. The mayor and every officer, agent, and employee of the city having duties embracing the receipt, disbursement, custody, or handling of money, and other officers and employees as may be required by ordinance, shall give a fidelity bond or faithful performance bond, as provided by ordinance, with some surety company authorized to do business in the State of

Georgia as surety, in such amount as shall be prescribed by ordinance. All such bonds and sureties thereto shall be subject to approval by the council. The cost of such bonds shall be paid by the city. All such bonds shall be kept in the custody of the city clerk, except that the city clerk's bond shall be in the custody of the mayor.

Section 3.10. Political Activity Prohibited. No officer or employee of the city, other than the mayor and councilmen, shall continue in the employment of the city after becoming a candidate for nomination or election to any public office. No person shall directly or indirectly give, render, or pay any money, service or other valuable consideration to any person for or on account of or in connection with any test, appointment, proposed appointment, promotion, or proposed promotion to any office or position of the city government. No person shall orally, by letter, or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or political purpose from any officer or employee of the city. An officer or employee of the city, other than the mayor and councilmen, shall not make any contribution to the campaign funds of any candidate in any city election, and shall not take part in the management, affairs or political campaign of any city election, other than in the exercise of his rights as a citizen to express his opinions and to cast his vote. Any person who by himself or with others willfully or corruptly violates any provision of this section shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not more than fifty dollars ($50.00), or by imprisonment for not more than one year, or by both such fine and

imprisonment. Any person who is convicted under this section shall be ineligible to hold any office or position of employment in the city government for a period of five years therafter, and if he be an officer or employee at the time of conviction, shall immediately forfeit and vacate the office or position he holds.

ARTICLE IV.

FISCAL ADMINISTRATION.

Section 4.01. Fiscal Year. The fiscal year of the city government shall begin on the first day of July and shall end on the thirtieth day of June of the succeeding year, but another fiscal year may be fixed by ordinance for the entire city government or for any utility.

Section 4.02. Mayor to submit Annual Budget. On or before a date fixed by the council but not later than forty five days prior to the beginning of each fiscal year, the mayor shall submit to the council a proposed budget for the next fiscal year, showing separately for the general fund, each utility, and each other fund the following: (a) revenue and expenditures during the preceding fiscal year, (b) Appropriations and estimated revenue and expenditures for the current fiscal year, (c) estimated revenue and recommended expenditures for the next fiscal year, (d) a comparative statement of the assets, liabilities, reserves, and surplus at the end of the preceding year and estimated assets, liabilities, reserves and surplus at the end of the current fiscal year, and (e) such other information and data, such as work programs and unit costs, in justification of recommended expenditures, as may be considered necessary by the mayor or requested by the council. The mayor may recommend and estimate additional revenue

measures, providing such estimates are separated clearly from normal revenue estimates. The budget shall be accompanied by a message from the mayor containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget and such other comments and information as he may deem pertinent. A sufficient number of copies of the mayor's message shall be reproduced to furnish a copy to any person desiring one, at cost of reproduction, and a copy of the budget in full shall be filed with the council and furnished to each councilman.

Section 4.03. Public Hearing. After receiving the budget from the mayor, the council shall fix a time and place for a public hearing thereon and shall cause a public notice thereof to be posted at a public place designated by the council at least ten days in advance of the date of the hearing. The public hearing shall be held before the council at the stated time and place, and all persons present shall be given an opportunity to be heard.

Section 4.04. Action by Council on Budget. After the public hearing and before the beginning of the ensuing fiscal year the council shall adopt an appropriation ordinance, based on the mayor's budget with such modifications as the council considers necessary or desirable. Appropriations need not be in more detail than a lump sum for each department and agency. The council shall not make any appropriations in excess of estimated revenue, except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the city; providing the council unanimously agrees there is such an emergency. If emergency con-

ditions prevent the adoption of an appropriation ordinance before the beginning of the new fiscal year, the appropriations for the last fiscal year shall become the appropriations for the new fiscal year, subject to amendment as provided in this section. Amendments may be made to the original appropriation ordinance at any time during a current fiscal year after a public hearing before the council on five days notice posted at a public place designated by the city council, provided that increased appropriations may be made only after the mayor has certified in writing that a sufficient amount of unappropriated revenue will be available, except for emergency appropriations as provided above. Any portion of an annual appropriation remaining unexpended and unencumbered at the close of a fiscal year shall lapse and be credited to the general fund, except that any balance remaining in any other fund at the end of a fiscal year may remain to the credit of that fund and be subject to further appropriation. At the end of each month the mayor shall submit a detailed budget report to the council, showing estimated and actual receipts and expenditures or encumbrances for that month and the fiscal year to the end of that month, as well as the amount encumbered or expended in excess of any of the itemized estimates of expenditures supporting the appropriations.

Section 4.05. Allotments. The mayor shall have authority to make periodic allotments of appropriated funds, and no contracts or purchases, except those made by the council, may be made in excess of the amount allotted by the mayor for any allotment period. In no event may contracts or purchases be made in excess of appropriations. Any expenditures except for salaries and wages may be reduced or eliminated through such allotment control.

governing authority of the municipality or its designated agent; provided, however, that nothing shall prevent a municipality from trading or swapping property with another property owner if such trade or swap is deemed to be in the best interest of the municipality.

(g) Notwithstanding any provision of this Code section or of any other law or ordinance to the contrary, the governing authority of any municipal corporation is authorized to sell and convey parcels of narrow strips of land, so shaped or so small as to be incapable of being used independently as zoned or under applicable subdivision or other development ordinances, or as streets, whether owned in fee or used by easement, to abutting property owners where such sales and conveyances facilitate the enjoyment of the highest and best use of the abutting owner's property without first submitting the sale or conveyance to the process of an auction or the solicitation of sealed bids; provided, however, that each abutting property owner shall be notified of the availability of the property and shall have the opportunity to purchase said property under such terms and conditions as set out by ordinance.

(h) Notwithstanding any provision of this Code section to the contrary or any other provision of law or ordinance to the contrary, whenever any municipal corporation determines that the establishment of a facility of the state or one of its authorities or other instrumentalities would be of benefit to the municipal corporation, by way of providing activities in an area in need of redevelopment, by continuing or enhancing local employment opportunities, or by other means or in other ways, such municipal corporation may sell or grant any of its real or personal property to the state or to any of its authorities or instrumentalities and, further, may sell or grant such lesser interests, rental agreements, licenses, easements, and other dispositions as it may determine necessary or convenient. These powers shall be cumulative of other powers and shall not be deemed to limit their exercise in any way. (Code 1933, § 69-318, enacted by Ga. L. 1976, p. 350, § 1; Ga. L. 1978, p. 890, §§ 1, 2; Ga. L. 1981, p. 831, § 1; Ga. L. 1987, p. 191, § 9; Ga. L. 1987, p. 1051, § 2; Ga. L. 1989, p. 1418, § 1; Ga. L. 1990, p. 877, § 2.)

The 1989 amendment, effective July 1, 1989, added subsection (g).

The 1990 amendment, effective April 4, 1990, added subsection (h).

Re: Surplus Land Sale
10-9-90

ties having population greater than

Law reviews. — For annual survey of law of real property, see 38 Mercer L. Rev. 319 (1986). For annual survey of recent developments, see 38 Mercer L. Rev. 473 (1986).

CHAPTER 39

STREET IMPROVEMENTS

Sec.
36-39-16. Payment of assessment in installments.
36-39-25. Street improvement bonds — Issuance; payment; interest; terms; form.

RESEARCH REFERENCES

ALR. — Governmental tort liability for injury to roller skater allegedly caused by sidewalk or street defects, 58 ALR4th 1197.

Legal aspects of speed bumps, 60 ALR4th 1249.

36-39-11. Examination of bids and award of contract; readvertisement for bids.

RESEARCH REFERENCES

ALR. — Public contracts: authority of state or its subdivision to reject all bids, 52 ALR4th 186.

Public contracts: low bidder's monetary relief against state or local agency for nonaward of contract, 65 ALR4th 93.

36-39-16. Payment of assessment in installments.

If the owner of the land or of any street railway assessed, within 30 days from the passage of the ordinance making the assessment final, files with the clerk of the municipal corporation his written request asking that the assessments be payable in installments in accordance with the provisions of this Code section, the same shall thereupon be and become payable in equal annual installments over such period of years, not less than two nor more than ten, as shall be fixed and prescribed by the governing body of the municipal corporation. Such installments shall bear interest at a rate not exceeding 7 percent per annum until paid. Each installment, together with the interest on the entire amount re-

Note: Sale of City Property

OCGA 36-37-6 (State law)

Sale - less than 500 sq. may be sold

Sale - More than 500 sq. Legal adv. 1 time.

Sale may be held no less than 15 days after adv., no more than 60 days.

Section 4.06. Centralized Purchasing. All contracts and purchases, except those that may be reserved to the council by ordinance, shall be made by the city purchasing agent, who shall be the mayor or an employee appointed by him. Any expenditure or contract for more than two hundred dollars ($200.00) shall be made only after publication, advertisement and competition by sealed bids, as prescribed by ordinance and an award shall be made to the lowest and best bidder; provided that bids need not be required for professional services or for services for which the rates or prices are regulated by public authority. Competition by bids shall not be required for the purchase of equipment, materials or supplies from any other governmental agency.

See Note

Section 4.07. Sale of City Property. The mayor may sell any city property which is obsolete, surplus or unusable, if the acquisition cost of such property did not exceed five hundred dollars ($500.00), without taking bids, but sealed bids shall be taken or a public auction shall be held for any sale of property having an acquisition cost of more than five hundred dollars ($500.00); provided that any sale of real estate shall be subject to approval by the council.

Section 4.08. Annual Audit. The council shall employ a certified public accountant to make an annual audit of all financial books and records of the city. The accountant shall file his report with the council, at a time agreed to between him and the council, and shall prepare a summary of the report which shall be posted in a public place designated by the city council.

Section 4.09. Property Taxes. All property subject to taxation for State or county purposes, including the capital stock

of merchants and public service companies, assessed as of January 10 in each year, shall be subject to the property tax levied by the city. The council by ordinance may elect to use the county assessment or may provide for an independent city assessment as provided by Georgia law. If an independent city assessment is made, a board of equalization, consisting of three persons appointed by the council, with compensation fixed by ordinance, shall hear appeals of taxpayers taken within ten days after the city assessor has sent a notice by ordinary mail of a new or increased assessment; provided that such notice shall not be required nor may appeals to be taken in the case of initial city assessments that are the same as county assessments. Except as otherwise provided in this section, appeals involving city property assessments may be taken as provided by general law. The board of equalization may increase or decrease the assessment of all property of the same class by a uniform percentage, in which case individual notices shall not be mailed but a notice of such action shall be published once in the official city newspaper; such a blanket increase or decrease shall not be subject to appeal. The authority and duties of such city assessing personnel shall be the same as those provided by general law for county assessing personnel. The city assessor shall meet with and assist the board of equalization. The board of equalization, upon completion of its work, shall submit a written report to the council, including total increases and decreases made by it and the final total assessment of each class of property.

Section 4.10. Tax Levy. The council shall make a tax levy expressed as a fixed rate per one hundred dollars ($100.00) of

assessed valuation, and if no tax levy is made within ninety days prior to the tax due date, or within ninety days prior to the due date of a second installment if two installments are authorized by ordinance, the property tax rate in effect the last fiscal year shall continue in effect as the tax rate for the new fiscal year.

Section 4.11. Tax Due Dates and Tax Bills. The due dates of property taxes shall be fixed by ordinance and provision may be made for equal semi-annual installments. The city shall send tax bills to taxpayers, showing the assessed valuations, amounts of taxes due, tax due dates, and information as to delinquency dates and penalties. Failure to send tax bills shall not, however, invalidate any tax. Property taxes shall become delinquent thirty days after a due date, at which time a penalty of ~~seven~~ ten per cent ~~(7%)~~ 10% shall be added and thereafter such taxes shall be subject to interest at the rate of one per cent (1%) for each month or fraction thereof until paid. On and after the date when such taxes become delinquent, the tax records of the city shall have the force and effect of a judgment of a court of record.

Section 4.12. Collection of Delinquent Taxes. The council may provide by ordinance for the collection of delinquent taxes by distress warrants issued by the mayor for the sale of goods and chattels to be executed by any police officer of the city under the laws governing execution of such process from a justice of the peace, or by the county trustee as provided by general law, or by the city attorney acting in accordance with general laws providing for the collection of delinquent city or county taxes, or by any two or more of the foregoing methods, and by the use of any available legal process and remedies. A lien shall exist against all property

Two signatures required beginning March 30, 1989.

on which city property taxes are levied, as of the assessment date of January 10 of each year, which shall be superior to all other liens except that it shall have equal dignity with those for Federal, State or county taxes.

Section 4.13. Special Assessments. The city may assess all or part of the cost of constructing, reconstructing, widening, or improving any public way, sewers, or other utility mains and appurtenances, against the abutting property owners, under such terms and conditions as may be prescribed by ordinance. Such special assessments shall become delinquent thirty days after their due dates (after the due date of each installment if paid on an installment basis), shall thereupon be subject to a penalty of seven per cent (7%), and shall thereafter be subject to interest at the rate of one per cent (1%) for each month or fraction thereof until paid. A lien shall exist against the abutting property superior to all other liens, except that it shall be of equal dignity with liens for county and city property taxes, and said lien shall be enforceable by the same procedures and under the same remedies as provided in this article for city property taxes.

Section 4.14. Disbursements by Checks. All disbursements shall be made by checks signed by the city clerk.

Section 4.15. Official Depository. The council shall designate an official depository or depositories for deposit and safekeeping of the funds of the city, and may require such collateral security as it deems necessary.

ARTICLE V.

MISCELLANEOUS

Section 5.01. Restriction on Actions for Damages Against City. No action shall be maintained against the city for damages unless a written statement by the claimant or by his agent, attorney or representative, setting forth the basis for his claim, shall have been filed with the mayor within sixty days after such cause of action shall have occurred, except that when the claimant is an infant or non compos mentis, or an injured person died within sixty days, the time limit for filing a claim shall be one hundred and twenty days. No officer or employee of the city may waive this requirement.

Section 5.02. General Laws may be used. The council in its discretion may elect to use the provisions of any general laws of the State in addition to or instead of the provisions of this Act.

Section 5.03. Penalties. The violation of any provision of this Act, for which a penalty is not specifically provided herein, is hereby declared to be a misdemeanor and shall be punished by a fine of not more than fifty dollars ($50.00), or by imprisonment not to exceed one year, or by both such fine and imprisonment.

Section 5.04. Severability. If any article, section, subsection, paragraph, sentence, or part thereof, of this Act shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair other parts of this Act unless it clearly appears that such other parts are wholly and necessarily dependent upon the part or parts held to be invalid or unconstitutional, it being the legislative intent in enacting this Act that each article, section, subsection,

paragraph, sentence, or part thereof, be enacted separately and independently of each other.

Section 5.05. Referendum section. Not less than 10 nor more than 30 days after the approval of this Act by the Governor, or after it otherwise becomes law, it shall be the duty of the mayor and council of the City of Statham to issue the call for an election for the purpose of submitting this Act to the Voters of said city for approval or rejection. The mayor and council shall set the date of such election for a day not more than 45 days after the date of the issuance of the call. The mayor and council shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Barrow County. The ballot shall have written or printed thereon the following words:

"For approval of the Act providing a new charter for the City of Statham."

"Against approval of the Act providing a new charter for the City of Statham."

All persons desiring to vote in favor of the Act shall vote for approval, and those persons desiring to vote for rejection of the Act shall vote against approval. If more than one-half of the votes cast on such question are for approval of the Act, it shall become of full force and effect, otherwise it shall be void and of no force and effect. The expense of such election shall be borne by the City of Statham. It shall be the duty of the mayor and council to hold and conduct such election. They shall hold such election under the same laws and rules and regulations as govern general elections, except as otherwise provided

herein. It shall be the duty of the mayor and council to canvass the returns and declare and certify the result of the election. It shall be their further duty to certify the result thereof to the Secretary of State.

Section 5.06. All laws and parts of laws in conflict with this Act are hereby repealed.