

PART 1

CHARTER*

**GEORGIA LAWS 2012
No. 475**

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***Editor's note**—2012 Ga. Laws p. 4870, repealed and reenacted the City Charter in its entirety to read as herein set out. The former City Charter consisted of Chapters 1—9. See the Charter Comparative Table for a complete derivation.

Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have been corrected without notation. Additions made for clarity are indicated by brackets.

State law references—General municipal powers, OCGA § 36-34-1 et seq.; home rule powers, OCGA § 36-35-1 et seq.

State constitution references—Limitations on special legislation, Art. III, § VI, para. IV; home rule, Art. IX, § II.

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AN ACT

To provide a new charter for the City of Gainesville; to provide for reincorporation, boundaries, and powers of the city; to provide for general powers and limitations on powers; to provide for a governing authority of such city and the powers, duties, authority, election, terms, method of filling vacancies, compensation, expenses, qualifications, prohibitions, conflicts of interest, suspension, and removal from office relative to members of such governing authority; to provide for inquiries and investigations; to provide for organization and procedures; to provide for ordinances; to provide for the office of mayor and mayor pro tempore and certain duties and powers relative thereto; to provide for administrative responsibilities; to provide for boards, commissions, and authorities; to provide for a city manager and assistant city manager, a city attorney, a city clerk, a city auditor, and other personnel; to provide for a municipal court and the judge or judges thereof; to provide for a solicitor and deputy solicitor; to provide for a clerk of municipal court; to provide for the court's jurisdiction, powers, practices, and procedures; to provide for ethics and disclosures; to provide for elections; to provide for taxation, licenses, and fees; to provide for franchises; to provide for bonded and other indebtedness; to provide for accounting and budgeting; to provide for city contracts and purchasing; to provide for an independent school system; to provide for education wards; to provide for definitions and inclusions; to provide for bonds for officials; to provide for prior ordinances and rules, pending matters, and existing personnel; to provide for penalties; to provide for definitions and construction; to provide for other matters relative to the foregoing; to provide for submission under the federal Voting Rights Act of 1965, as amended; to repeal a specific Act; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I. INCORPORATION AND POWERS**Section 1.10. City of Gainesville, Georgia.**

This city and the inhabitants thereof, are reincorporated by the enactment of this charter and are hereby constituted and declared a body politic and corporate under the name and style City of Gainesville, Georgia, and by that name shall have perpetual succession.

Section 1.11. Corporate boundaries.

(a) The boundaries of this city shall be those existing on the effective date of the adoption of this charter with such alterations as may be made from time to time in the manner provided by law. The boundaries of this city at all times shall be shown on a map, a written description or any combination thereof, to be retained in the office of the city clerk and to be designated, as the case may be: "Official map (or description) of the corporate limits of the City of Gainesville, Georgia." Photographic, typed, or other copies of such map or description certified by the city clerk shall be admitted as evidence in all courts and shall have the same force and effect as with the original map or description.

(b) The governing body may provide for the redrawing of any such map by ordinance to reflect lawful changes in the corporate boundaries. A redrawn map shall supersede for all purposes the entire map or maps which it is designed to replace.

Section 1.12. Powers and construction.

(a) This city shall have all powers possible for a city to have under the present or future Constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter. This city shall have all the powers of self-government not otherwise prohibited by this charter or by general law.

(b) The powers of this city shall be construed liberally in favor of the city. The specific mention or failure to mention particular powers shall not be construed as limiting in any way the powers of this city.

Section 1.13. Examples of powers.

(a) Animal regulations. To regulate and license or to prohibit the keeping or running at large of animals and fowl and to provide for the impoundment of same if in violation of any ordinance or lawful order; to provide for the disposition by sale, gift, or humane destruction of animals and fowl when not redeemed as provided by ordinance; and to provide punishment for violation of ordinances enacted hereunder;

(b) Appropriations and expenditures. To make appropriations for the support of the government of the city; to authorize the expenditure of money for any purposes authorized by this charter and for any purpose for which a municipality is authorized by the laws of the State of Georgia; and to provide for the payment of expenses of the city;

(c) Building regulation. To regulate and to license the erection and construction of buildings and all other structures; to adopt building, housing, plumbing, fire safety, electrical, gas, and heating and air-conditioning codes; and to regulate all housing, and building trades;

(d) Business regulation and taxation. To levy and to provide for the collection of regulatory fees and taxes on privileges, occupations, trades, and professions as authorized by Title 48 of the O.C.G.A. or other such applicable laws as are or may hereafter be enacted; to permit and regulate the same; to provide for the manner and method of payment of such regulatory fees and taxes; and to revoke such permits after due process for failure to pay any city taxes or fees;

(e) Condemnation. To condemn property, inside or outside the corporate limits of the city, for present or future use and for any corporate purpose deemed necessary by the governing authority, utilizing procedures enumerated in Title 22 of the O.C.G.A.;

(f) Contracts. To enter into contracts and agreements with other governmental entities and with private persons, firms, and corporations;

(g) Emergencies. To establish procedures for determining and proclaiming that an emergency situation exists inside or outside the city and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health, or well-being of the citizens of the city;

(h) Environmental protection. To protect and preserve the natural resources, environment, and vital areas of the city, the region, and the state through the preservation and improvement of air quality, the restoration and maintenance of water resources, the control of erosion and sedimentation, the management of solid waste, and other necessary actions for the protection of the environment;

(i) Fire regulations. To fix and establish fire limits and from time to time to extend, enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with general law, relating to both fire prevention and detection and to fire fighting; and to prescribe penalties and punishment for violations thereof;

(j) Garbage fees. To levy, fix, and collect a garbage, refuse, and trash collection and disposal and other sanitary service charge, tax, or fee for such services as may be necessary in the operation of the city from all individuals, firms, and corporations residing in or doing business therein benefiting from such services; to enforce the payment of such charges, taxes, or fees; and to provide for the manner and method of collecting such service charges;

(k) General health, safety, and welfare. To define, regulate, and prohibit any act, practice, conduct, or use of property which is detrimental to health, sanitation, cleanliness, welfare, and safety of the inhabitants of the city and to provide for the enforcement of such standards;

(l) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for any purpose related to powers and duties of the city and

the general welfare of its citizens, on such terms and conditions as the donor or grantor may impose;

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

(n) Jail sentences. To provide that persons given jail sentences in the city's court may work out such sentences in any public works or on the streets, roads, and other public property in the city, to provide for commitment of such persons to any jail, to provide for the use of pretrial diversion and any alternative sentencing allowed by law, or to provide for commitment of such persons to any county work camp or county jail by agreement with the appropriate county officials;

(o) Motor vehicles. To regulate the operation of motor vehicles and exercise control over all traffic, including parking, upon or across the streets, roads, alleys, and walkways of the city;

(p) Municipal agencies and delegation of power. To create, alter, or abolish departments, boards, offices, commissions, and agencies of the city and to confer upon such agencies the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same;

(q) Municipal debts. To appropriate and borrow money for the payment of debts of the city and to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized by this charter or the laws of the State of Georgia;

(r) Municipal property ownership. To acquire, dispose of, lease, and hold in trust or otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or outside the property limits of the city;

(s) Municipal property protection. To provide for the preservation and protection of property and equipment of the city and the administration and use of same by the public; and to prescribe penalties and punishment for violations thereof;

(t) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose of public utilities, including but not limited to a system of waterworks, sewers and drains, sewage

disposal, storm-water management, gas works, electric light plants, cable television and other telecommunications, transportation facilities, public airports, and any other public utility; and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties and to provide for the withdrawal of service for refusal or failure to pay the same; provided, however, no public utility owned or operated by the city shall be sold by the governing body unless the governing body, by a majority vote with all members participating, first resolves that such utility shall be sold, and, thereafter, the proposed sale is approved by a majority vote of the electors of the City of Gainesville voting in a special election called and held for that purpose;

(u) Nuisance. To define a nuisance and provide for its abatement whether on public or private property;

(v) Penalties. To provide penalties for violation of any ordinances adopted pursuant to the authority of this charter and the laws of the State of Georgia;

(w) Planning and zoning. To provide comprehensive city planning for development by zoning; and to provide subdivision regulation and the like as the governing body deems necessary and reasonable to ensure a safe, healthy, and esthetically pleasing community;

(x) Police and fire protection. To exercise the power of arrest through duly appointed police officers and to establish, operate, or contract for a police and a fire-fighting agency;

(y) Public hazards: removal. To provide for the destruction and removal of any building or other structure which is or may become dangerous or detrimental to the public;

(z) Public improvements. To provide for the acquisition, construction, building, operation, and maintenance of public ways, parks and playgrounds, recreational facilities, cemeteries, mausoleums, markets and market houses, public buildings, libraries, public housing, airports, hospitals, terminals, docks, parking facilities, or charitable, cultural, educational, recreational, conservation, sport, curative, and corrective agencies and facilities; and to provide any other public improve-

ments, inside or outside the corporate limits of the city; to regulate the use of public improvements; and, for such purposes, property may be acquired by condemnation under Title 22 of the O.C.G.A., or such other applicable laws as are or may hereafter be enacted;

(aa) Public peace. To provide for the prevention and punishment of loitering, disorderly conduct, drunkenness, riots, pandering, and public disturbances;

(bb) Public transportation. To organize and operate such public transportation systems as are deemed beneficial;

(cc) Public utilities and services. To grant franchises or make contracts for or impose taxes on public utilities and public service companies; and to prescribe the rates, fares, regulations, and standards and conditions of service applicable to the service to be provided by the franchise grantee or contractor insofar as not in conflict with valid regulations of the Public Service Commission;

(dd) Regulation of roadside areas. To prohibit or regulate and control the erection, removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any and all other structures or obstructions upon or adjacent to the rights of way of streets and roads or within view thereof within or abutting the corporate limits of the city; and to prescribe penalties and punishment for violation of such ordinances;

(ee) Retirement. To provide and maintain a retirement plan and other employee benefit plans and programs for officers and employees of the city;

(ff) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and walkways within the corporate limits of the city; and to grant franchises and rights of way throughout the streets and roads, and over the bridges and viaducts for the use of public utilities;

(gg) Sewer fees. To levy a fee or charge as necessary to assure the acquiring, constructing, equipping, operating, maintaining, and extending of a sewage disposal plant and sewerage system and to levy on those to whom sewers and sewerage systems are made available a sewer service fee or charge for the availability or use of the sewers; to provide for the manner and method of collecting such service charges and for enforcing payment of the same; and to charge, impose, and collect a sewer connection fee or fees to those connected with the system;

(hh) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish, and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper, and other recyclable materials and to provide for the sale of such items;

(ii) Special areas of public regulation. To regulate or prohibit junk dealers, the manufacture and sale of intoxicating liquors; to regulate the transportation, storage, and use of combustible, explosive, and inflammable materials, the use of lighting and heating equipment, and any other business or situation which may be dangerous to persons or property; to regulate and control the conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows of any kind, by taxation or otherwise; to license and tax professional fortunetelling, palmistry, and massage parlors; and to restrict adult bookstores and tattoo studios to certain areas;

(jj) Taxes: ad valorem. To levy and provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation;

(kk) Taxes: other. To levy and collect such other taxes as may be allowed now or in the future by law;

(ll) Taxicabs. 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 on such vehicles in the amounts to be prescribed by ordinance; and to regulate the parking of such vehicles;

(mm) Urban redevelopment. To organize and operate an urban redevelopment program;

(nn) Other powers. 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, or general welfare of the city and its inhabitants; and to exercise all implied powers necessary or desirable to carry into execution all powers granted in this charter as fully and completely as if such powers were fully stated herein; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia; and no listing of particular powers in this charter 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 municipalities under the Constitution or applicable laws of the State of Georgia.

Section 1.14. Exercise of powers.

All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or employees shall be carried into execution as provided by this charter. If this charter makes no provision, such shall be carried into execution as provided by ordinance or as provided by pertinent laws of the State of Georgia.

ARTICLE II. GOVERNMENT STRUCTURE

A. GOVERNING BODY

Section 2.10. Governing body creation; number; election.

(a) The legislative authority of the government of this city, except as otherwise specifically provided in this charter, shall be vested in a governing body to be composed of a mayor and five councilmembers. The governing body established shall in all respects be a successor to and continuation of the governing authority under prior law. The mayor and councilmembers shall be elected in the manner provided by general law and this charter.

(b) The council shall be composed of five members elected by the voters of the city at large in accordance with provisions of Article V of this charter. Not more than one councilmember shall reside in each ward as provided in Section 5.14 of this charter. The mayor shall be elected as provided in Section 2.28 of this charter.

Section 2.11. Nonpartisan elections.

The mayor and councilmembers shall be elected in nonpartisan elections as provided in Code Section 21-2-139 of the O.C.G.A.

Section 2.12. Governing body terms and qualifications for office.

(a) The mayor and members of the council shall serve for terms of four years and until their respective successors are elected and qualified. No person shall be eligible to serve as mayor or councilmember unless that person shall have been a resident of the city for 12 months prior to the date of election of mayor or members of the council; the mayor and each councilmember shall continue to reside therein during that member's period of service and to be registered and qualified to vote in municipal elections of this city.

(b) In addition to the above requirements, no person shall be eligible to serve as a councilmember representing a council ward unless that person is at least 21 years of age and has been a resident of the ward such person seeks to represent for a continuous period of at least 12 months immediately prior to the date of the election for councilmember and continues to reside in such ward during that person's period of service.

Section 2.13. Vacancy; filling of vacancies.

(a) Vacancies - The office of mayor or councilmember shall become vacant upon the incumbent's death, resignation, forfeiture of office, or occurrence of any event specified by the Constitution of the State of Georgia, Title 45 of the O.C.G.A., or such other applicable laws as are or may hereafter be enacted.

(b) Filling of vacancies - A vacancy in the office of mayor or councilmember shall be filled for the remainder of the unexpired term, if any, by ap-

pointment by the governing body or those members remaining if less than 12 months remains in the unexpired term. If such vacancy occurs 12 months or more prior to the expiration of the term of that office, it shall be filled for the remainder of the unexpired term by a special election, as provided for in Section 5.13 of this charter and in accordance with Title 21 of the O.C.G.A., or other such laws as are or may hereafter be enacted.

Section 2.14. Compensation and expenses.

The mayor and councilmembers shall receive compensation and expenses for their services as provided by ordinance. Such salary shall be paid from municipal funds in monthly installments. The governing body may provide by ordinance for the provision of insurance, retirement, workers' compensation, and other employee benefits to the mayor and councilmembers and may provide by ordinance for the reimbursement of expenses actually and necessarily incurred by the mayor and councilmembers in carrying out their official duties.

Section 2.15. Conflicts of interest; holding other offices.

(a) Elected and appointed officers of the city are trustees and servants of the residents of the city and shall act in a fiduciary capacity for the benefit of such residents.

(b) Conflict of interest - No elected official, appointed officer, or employee of the city or any agency or political entity to which this charter applies shall knowingly:

- (1) Engage in any business or transaction, or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of that person's official duties or which would tend to impair the independence of the official's judgment or action in the performance of those official duties;
- (2) Engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of that person's official duties or would tend

to impair the independence of the official's judgment or action in the performance of those official duties;

- (3) Disclose confidential information including information obtained at meetings which are closed pursuant to Chapter 14 of Title 50 of the O.C.G.A., concerning the property, government, or affairs of the governmental body by which the official is engaged without proper legal authorization or use such information to advance the financial or other private interest of the official or others;
- (4) Accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm, or corporation which to the official's knowledge is interested, directly or indirectly, in any manner whatsoever, in business dealings with the governmental body by which the official is engaged; provided, however, that an elected official who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;
- (5) Represent other private interests in any action or proceeding against this city or any portion of its government; or
- (6) Vote or otherwise participate in the negotiation or in the making of any contract with any business or entity in which the official has a financial interest.

(c) Disclosure - Any elected official, appointed officer, or employee who shall have any financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city shall disclose such interest to the governing body. The mayor or any councilmember who has a financial interest in any matter pending before the governing body shall disclose such interest and such disclosure shall be entered on the records of the governing body, and that official shall disqualify himself or herself from participating in any decision or vote relating thereto. Any elected official, appointed officer, or employee of any agency or political entity to which this charter applies who shall have any financial interest, directly or indirectly, in any contract or matter

pending before or within such entity shall disclose such interest to the governing body of such agency or entity.

(d) Use of public property - No elected official, appointed officer, or employee of the city or any agency or entity to which this charter applies shall use property owned by such governmental entity for personal benefit or profit but shall use such property only in his or her capacity as an officer or employee of the city.

(e) Contracts voidable and rescindable - Any violation of this section which occurs with the knowledge, express or implied, of a party to a contract or sale shall render said contract or sale voidable at the option of the governing body.

(f) Ineligibility of elected official - Except where authorized by law, neither the mayor nor any councilmember shall hold any other elective or appointive office in the city or otherwise be employed by said government or any agency thereof during the term for which that official was elected. No former mayor and no former councilmember shall hold any appointive office in the city until one year after the expiration of the term for which that official was elected.

(g) Political activities of certain officers and employees - No appointed officer of the city shall continue in such employment upon qualifying as a candidate for nomination or election to any public office. No employee of the city shall continue in such employment upon qualifying as a candidate for nomination or election to any public office in this city or any other public office which is inconsistent, incompatible, or in conflict with the duties of the city employee. Such determination shall be made by the governing body either immediately upon qualifying or at any time such conflict may arise.

(h) Conviction of a crime - Any elected official shall forfeit his office if he or she is in violation of any one or more of the causes provided in Title 45 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted or is convicted of a crime involving moral turpitude.

(i) Penalties for violation -

(1) Any elected official, appointed officer, or employee who knowingly conceals such

financial interest or knowingly violates any of the requirements of this section shall be guilty of malfeasance in office or position and shall be deemed to have forfeited that person's office or position.

(2) Any elected official, appointed officer, or employee of the city who shall forfeit an office or position as described in paragraph (1) of this subsection shall be ineligible for appointment or election to or employment in a position in the city government for a period of three years thereafter.

(j) Right to public hearing - Any elected official or appointed officer of the city who is accused of violating any of the requirements of this section shall be entitled to a public hearing as provided for in subsection (b) of Section 5.16 of this charter. Any employee who is accused of violating any of the requirements of this section shall be entitled to appeal as provided by ordinance.

Section 2.16. Inquiries and investigations.

Following the adoption of an authorizing resolution, the governing body may make inquiries and investigations into the affairs of the city and the conduct of any department, office, or agency thereof and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the governing body shall be punished as provided by ordinance.

Section 2.17. General power and authority of the governing body.

(a) Except as otherwise provided by law or this charter, the governing body shall be vested with all the powers of government of this city.

(b) In addition to all other powers conferred upon it by law, the governing body shall have the authority to adopt and provide for the execution of such ordinances, resolutions, rules, and regulations, not inconsistent with this charter and the Constitution and the laws of the State of Georgia, which it shall deem necessary, expedient, or helpful for the peace, good order, protection of life and property, health, welfare, sanitation, comfort, con-

venience, prosperity, or well-being of the inhabitants of the City of Gainesville and may enforce such ordinances by imposing penalties for violation thereof.

Section 2.18. Eminent domain.

The governing body is hereby empowered to acquire, construct, operate, and maintain public ways, parks, public grounds, cemeteries, mausoleums, markets, market houses, public buildings, libraries, sewers, drains, sewage treatment, waterworks, airports, mass transit systems, 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 condemned under procedures established under general law applicable now or as provided in the future.

B. ORGANIZATION AND PROCEDURES

Section 2.19. Organizational meetings.

The governing body shall hold an organizational meeting at the first regular meeting in January following each regular election. The meeting shall be called to order by the mayor, mayor-elect, or senior councilmember and the oath of office shall be administered to the newly elected members by a judicial officer authorized to administer oaths or the city clerk and shall, to the extent that it comports with federal and state law, be as follows:

"I do solemnly swear that I will faithfully perform the duties of mayor/councilmember of the City of Gainesville and that I will support and defend the charter thereof as well as the Constitution and laws of the State of Georgia and of the United States of America; that I am not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof; that I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I by the laws of the State of Georgia am prohibited from holding; that I am otherwise qualified to hold said office

according to the Constitution and laws of Georgia; that I have been a resident of [my ward and] the City of Gainesville for the time required by the Constitution and laws of this state and by the municipal charter; and that I will perform the duties of my office in the best interest of the City of Gainesville to the best of my ability without fear, favor, affection, reward, or expectation thereof"

Section 2.20. Regular and special meetings.

(a) The governing body shall hold regular meetings at such times and places as shall be prescribed by resolution.

(b) Special meetings of the governing body may be held on the call of the mayor or four members of the council. Notice of such special meetings shall be served on all other members personally, or by telephone personally, at least 48 hours in advance of the meeting. Such notice to councilmembers shall not be required if the mayor and all councilmembers are present when the special meeting is called. Such notice of any special meeting may be waived by a councilmember in writing before or after such a meeting, and attendance at the meeting shall also constitute a waiver of notice on any business transacted in such councilmember's presence. Only the business stated in the call may be transacted at the special meeting.

(c) All meetings of the governing body shall be public to the extent required by law and notice to the public of special meetings shall be made fully as is reasonably possible as provided by Chapter 14 of Title 50 of the O.C.G.A. or other such applicable laws as are or may hereafter be enacted.

Section 2.21. Rules of procedure.

The governing body shall adopt its rules of procedure and order of business consistent with the provisions of this charter and shall provide for keeping minutes of its proceedings, which shall be the official record. Except for the minutes of meetings or portions of meetings that are closed to the public, said minutes shall be open for public inspection.

Section 2.22. Quorum; voting.

(a) Four members of the governing body shall constitute a quorum and shall be authorized to transact business of the city. Voting shall be by voice, hands, or electronic means as determined by the mayor and the vote shall be recorded in the minutes, but any member of the governing body shall have the right to request a roll-call vote in which each member shall cast his or her vote by voice when his or her name is called and such vote shall be recorded in the minutes. Except as otherwise provided in this charter, the affirmative vote of four members of the governing body shall be required for the adoption of any ordinance, resolution, or motion, except as provided for in subsection (c) of this section.

(b) Any member abstaining from a vote shall be recorded as an abstention.

(c) If only four members of the governing body are in attendance at a meeting, the affirmative vote of the majority of the members present shall be required for the adoption of any ordinance, resolution, or motion.

C. ORDINANCES**Section 2.23. Ordinance form; procedures.**

(a) Every proposed ordinance should be introduced in writing and in the form required for final adoption. No ordinance shall contain a subject which is not expressed in its title. The enacting clause shall be "It is hereby ordained by the governing authority of the City of Gainesville" and every ordinance shall so begin.

(b) An ordinance may be introduced by any member of the governing body and be read at a regular or special meeting. Ordinances shall be considered and adopted or rejected by the governing body in accordance with the rules which it shall establish; provided, however, an ordinance shall not be adopted the same day it is introduced, except for emergency ordinances provided in Section 2.25 of this charter. Upon introduction of any ordinance, the clerk shall as soon as possible distribute a copy to the mayor and to each councilmember.

Section 2.24. Action requiring an ordinance.

Acts of the governing body which have the force and effect of law shall be enacted by ordinance.

Section 2.25. Emergencies.

(a) To meet a public emergency affecting life, health, property, or public peace, the governing body may convene on call of the mayor or three councilmembers and promptly adopt an emergency ordinance, but such ordinance may not levy taxes; grant, renew, or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money except for loans to be repaid within 30 days. An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least the majority of the members of the governing body present at such meeting shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed 30 days following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(b) Such meetings shall be open to the public to the extent required by law and notice to the public of emergency meetings shall be made as fully as is reasonably possible in accordance with Chapter 14 of Title 50 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted.

Section 2.26. Codes of technical regulations.

(a) The governing body may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure

and requirements governing such adopting ordinance shall be as prescribed for ordinances generally except that: (1) the requirements of subsection (b) of Section 2.23 of this charter for distribution of copies of the ordinance shall be construed to include copies of any code of technical regulations, as well as the adopting ordinance; and (2) a copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to Section 2.27 of this charter.

(b) Copies of any adopted code of technical regulations shall be made available for inspection by the public.

Section 2.27. Signing; authenticating; recording; codification; printing.

(a) The clerk shall authenticate by the clerk's signature and record in full in a properly indexed book kept for that purpose all ordinances adopted by the council.

(b) The governing body shall provide for the preparation of a general codification of all the ordinances of the city having the force and effect of law. The general codification shall be adopted by the governing body by ordinance and shall be published promptly together with all amendments thereto and such codes of technical regulations and other rules and regulations as the governing body may specify. This compilation shall be known and cited officially as "The Code of the City of Gainesville, Georgia." Copies of the code shall be available to all officers, departments, and agencies of the city and made available for purchase by the public at a reasonable price as fixed by the governing body and also available electronically.

(c) The governing body shall cause each ordinance and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances and charter amendments shall be made available for purchase by the public at reasonable prices to be fixed by the governing body and available electronically. Following publication of the first code under this charter and at all times thereafter, the ordinances and charter amendments shall be printed in substantially the

same style as the code currently in effect and shall be suitable in form for incorporation therein and available electronically. The governing body shall make such further arrangements as deemed desirable with reproduction and distribution of any current changes in or additions to codes of technical regulations and other rules and regulations included in the code and available electronically.

D. MAYOR AND MAYOR PRO TEMPORE

Section 2.28. Selection of mayor and mayor pro tempore.

At a regular election the voters of the city shall elect a mayor at large for a term of four years. The governing body shall elect from among its members a mayor pro tempore who shall act as mayor during the absence or disability of the mayor, but who shall only vote once on matters before the governing body. The mayor pro tempore shall be elected at the organizational meeting of the governing body and shall serve for a term of two years.

Section 2.29. Powers and duties of mayor.

The mayor shall:

- (1) Preside at meetings of the governing body where he or she shall have all the rights, powers, duties, and responsibilities of a councilmember except that the mayor shall not make a motion or second a motion and shall be entitled to vote on matters before the governing body only when there is an equal division on the question or in the case where his or her vote will provide the fourth affirmative vote required for approval of a matter, and then the mayor shall determine the matter by his or her vote. The mayor shall also be entitled to vote on the election and removal of the following officers and employees of the council: mayor pro tempore, city manager, city attorney, municipal court judge, solicitor, and city auditor;

- (2) Be the head of the city for the purpose of service of process and for ceremonial purposes and be the official spokesperson for the city and the chief advocate of policy;
- (3) Have power to administer oaths and to take affidavits; and
- (4) Sign all ordinances and resolutions approved by a majority vote of the governing body and other instruments executed by the city which by law are required to be signed by the mayor.

Section 2.30. Position of mayor pro tempore.

During the absence or physical or mental disability of the mayor for any cause, the mayor pro tempore, or in the mayor pro tempore's absence or disability for any reason, any one of the councilmembers chosen by a majority vote of the governing body, shall be clothed with all the rights and privileges of the mayor and shall perform the duties of the office of the mayor so long as such absence or disability shall continue. Any such disability shall be declared by majority vote of all councilmembers. The mayor pro tempore or selected councilmember shall sign all ordinances and resolutions in which the mayor has a disqualifying financial interest as provided in Section 2.15 of this charter. When acting as mayor, the mayor pro tempore shall continue to have only one vote as a member of the governing body.

E. CITY MANAGER

Section 2.31. City manager; appointment; qualifications; compensation.

The governing body shall appoint a city manager for an indefinite term and shall fix the manager's compensation. The manager shall be appointed solely on the basis of executive and administrative qualifications.

Section 2.32. Removal of city manager.

The city manager is employed at will and may be summarily removed from office at any time by a majority vote of the governing body subject to any contract provisions.

Section 2.33. Assistant city manager.

The city manager shall have the right to appoint, suspend, and remove an assistant city manager, subject to any contract provisions, who shall, in the absence of the city manager, execute the powers and perform the duties of the city manager during his or her temporary absence or disability.

Section 2.34. Powers and duties of the city manager.

The city manager shall be the chief executive and administrative officer of the city. The manager shall be responsible to the governing body for the administration of all city affairs placed in the manager's charge by or under this charter. As the chief executive and administrative officer, the manager shall:

- (1) Appoint, suspend, reclassify, demote, or remove all city employees and administrative officers, except the municipal court judge, city attorney, solicitor, and city auditor. The manager may authorize any administrative officer who is subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;
- (2) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law;
- (3) Attend all city council meetings except for closed meetings held for the purposes of deliberating on the appointment, discipline, or removal of the city manager and have the right to take part in discussion but not vote;
- (4) See that all laws, provisions of this charter, and acts of the governing body, subject to enforcement by the manager or by officers subject to the manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual operating budget and capital budget to the governing body;

- (6) Submit to the governing body and make available to the public an annual report on the finances and administrative activities of the city;
- (7) Make such other reports as the governing body may require concerning the operations of city departments, offices, and agencies subject to the manager's direction and supervision;
- (8) Keep the governing body fully advised as to the financial condition and future needs of the city and make such recommendations to the governing body concerning the affairs of the city as the manager deems desirable;
- (9) Sign contracts, deeds, licenses, fiscal expenditures, and other public documents on behalf of the city after approval of the governing body;
- (10) Administer oaths to employees under the control and supervision of the city manager; and
- (11) Perform other such duties as are specified in this charter or as may be required by the governing body.

Section 2.35. Governing body interference with administration.

Except for the purpose of inquiries and investigations under Section 2.16 of this charter, the governing body or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the governing body nor its members shall give orders to any such officer or employee, either publicly or privately.

ARTICLE III. ADMINISTRATIVE AFFAIRS

A. ADMINISTRATIVE OFFICERS

Section 3.10. Administrative and service departments.

(a) Except as otherwise provided in this charter, the city manager shall prescribe the functions or duties and establish, abolish, alter, consolidate

or leave vacant all nonelective offices, departments, and agencies of the city as necessary for the proper administration of the affairs and government of this city subject to consent by the governing body.

(b) Except as otherwise provided by this charter or by law, the directors of departments and other appointed officers of the city shall be appointed solely on the basis of their respective administrative and professional qualifications.

(c) There shall be a director of each department or agency who shall be its principal officer. Each director shall, subject to the direction and supervision of the city manager, be responsible for the administration and direction of the affairs and operations of that director's department or agency.

(d) All appointive officers and directors under the supervision of the city manager shall be employees at will and subject to removal or suspension at any time by the city manager unless otherwise provided by law or ordinance.

Section 3.11. Boards, commissions, and authorities.

(a) The governing body shall create by ordinance or resolution such boards, commissions, and authorities to fulfill any investigative, quasi-judicial, or quasi-legislative function the governing body deems necessary and shall by ordinance or resolution establish the composition, period of existence, duties, and powers thereof.

(b) All members of boards, commissions, and authorities of the city shall be appointed by the mayor subject to approval by the council for such terms of office and in such manner as shall be provided by ordinance or resolution, except where other appointing authority, terms of office, or manner of appointment is prescribed by this charter or by law. The mayor shall make reasonable efforts to distribute appointments among all wards, provided there are eligible and qualified candidates.

(c) The governing body, by ordinance, may provide for the compensation and reimbursement for actual and necessary expenses of the members of any board, commission, or authority.

(d) Except as otherwise provided by charter or by law, no member of any board, commission, or authority shall hold any elective office in the city.

(e) Any vacancy on a board, commission, or authority of the city shall be filled for the unexpired term in the manner prescribed herein for original appointment, except as otherwise provided by this charter or by law.

(f) No member of a board, commission, or authority shall assume office until that person has executed and filed with the city clerk an oath obligating himself or herself to faithfully and impartially perform the duties of that member's office.

(g) All board members serve at will and may be removed at any time by majority vote of the governing body unless otherwise provided by law.

(h) Except as otherwise provided by this charter, ordinance, or law, each board, commission, or authority of the city shall elect one of its members as chair and one member as vice chair and may elect as its secretary one of its own members or may appoint as secretary an employee of the city. Each board, commission, or authority of the city government may establish such bylaws, rules, and regulations, not inconsistent with this charter, ordinances of the city, or law, as it deems appropriate and necessary for the fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and regulations shall be filed with the clerk of the city.

(i) If it becomes necessary for a board, commission, or authority to dissolve, the official minute book for said board, commission, or authority shall be transferred to the city clerk for permanent retention.

Section 3.12. City attorney.

(a) The governing body shall appoint a city attorney, together with such assistant city attorneys as may be authorized, and shall provide for the payment of such attorney or attorneys for services rendered to the city. The city attorney shall be responsible for providing for the representation and defense of the city in all litigation in which the city is a party; may be the prosecuting officer in the municipal court; may draw

proposed ordinances when requested to do so; shall attend the meetings of the council as directed; shall advise the governing body and city manager concerning legal aspects of the city's affairs; and shall perform such other duties as may be required by virtue of the person's position as city attorney.

(b) The city attorney is not a public official of the city and does not take an oath of office. The city attorney shall at all times be an independent contractor. A law firm, rather than an individual, may be designated as the city attorney.

(c) The city attorney shall be removed at any time upon majority vote of the governing body.

Section 3.13. City clerk.

The city manager shall appoint a city clerk who shall not be a councilmember. The city clerk shall serve as secretary to the governing body; attend all meetings of the governing body and prepare and maintain accurate minutes of all its proceedings; be a custodian of the official city seal and city records; maintain governing body records required by this charter; administer oaths; and perform such other duties as may be required by the governing body. The city clerk shall supervise and keep a record of all municipal elections.

Section 3.14. City auditor.

(a) The governing body shall appoint a city auditor who shall be a certified public accountant. The city auditor shall be responsible for providing an annual independent audit of all city accounts, funds, and financial transactions in accordance with generally accepted auditing principles. The city auditor shall attend the meetings of the council as directed; shall advise the governing body and city manager concerning financial aspects of the city's affairs; and shall perform such other duties as may be required by virtue of the person's position as city auditor.

(b) The city auditor is not a public official of the city and does not take an oath of office. The city auditor shall at all times be an independent contractor. An accounting firm, rather than an individual, may be designated as the city auditor.

(c) The city auditor shall be removed at any time upon majority vote of the governing body.

B. PERSONNEL ADMINISTRATION

Section 3.15. Position classification and pay plans.

The city manager shall be responsible for the preparation of a position classification and pay plan which shall be submitted to the governing body for approval. Such plan may apply to all employees of the city and any of its agencies, departments, boards, commissions, or authorities. When a pay plan has been adopted, the governing body shall not increase or decrease the salary range applicable to any position except by amendment of such pay plan. For purposes of this section, all elected and appointed city officials are not city employees.

Section 3.16. Employee classifications established.

The general employee classifications in the City of Gainesville shall be as follows:

- (1) Council appointments: The appointed service which shall include the city manager, the city attorney, the municipal court judge, the solicitor, the city auditor, and all personnel appointed by the governing body pursuant to this charter except employees in the classified service appointed as provided in this charter;
- (2) Appointed officials: Appointments by the city manager. These employees serve at will and may be removed at any time;
- (3) Classified appointment: Regular full-time employees covered by the provisions of the merit system; and
- (4) Nonclassified service: Includes all part-time or temporary employees as designated by the city manager.

Section 3.17. Employees status on effective date of charter.

The rights, status, salaries, wages, rank, and conditions of employment of all employees of the

City of Gainesville defined in Section 3.16 of this charter subject to this charter shall be and remain as they existed at the time this charter becomes effective and shall so remain until and unless changed or terminated under some provision of this charter.

ARTICLE IV. JUDICIAL BRANCH

Section 4.10. Creation; name.

There shall be a court to be known as the Municipal Court of the City of Gainesville, Georgia.

Section 4.11. Chief judge; associate judge.

(a) The municipal court shall be presided over by a chief judge, who shall have the authority to try any case now or hereafter made triable in such court and shall have such other duties as provided by law, statute, or ordinance and such part-time, full-time, or stand-by judges as shall be provided by ordinance.

(b) No person shall be qualified or eligible to serve as a judge on the municipal court unless that person shall have attained the age of 25 years, shall be a member of the State Bar of Georgia, and shall possess all qualifications required by law. He or she shall hold no other municipal office in the city during his or her tenure as judge. All judges shall be appointed by the governing body and shall serve until a successor is appointed and qualified.

(c) Compensation of the judges shall be fixed by the governing body.

(d) Judges serve at will and may be removed from office at any time by the governing body unless otherwise provided by ordinance.

(e) Before assuming office, each judge shall take an oath, given by the mayor that shall be entered upon the minutes of the governing body as required in Section 2.21 of this charter. The oath shall be as follows:

"I do solemnly swear that I will carry out the duties of judge of the Municipal Court of Gainesville, Georgia, in accordance with the law, that I will act without fear, favor, or

partiality in deciding issues between the municipality and persons accused of violating ordinances of the municipality, and that I will conduct myself and the affairs of the municipal court in such a manner as will reflect credit upon the municipality in its administration of justice."

Section 4.12. Solicitor; deputy solicitor.

(a) The Municipal Court of Gainesville, Georgia, shall have a solicitor and deputy solicitor whose duties are to prosecute persons charged with violating ordinances of the city or of any other law over which the municipal court has jurisdiction; to assist the judge and other officers and personnel of the court in achieving justice in all cases; and to perform such other duties as are or may be required by law or by ordinance or which necessarily appertain to this office.

(b) The solicitor of the municipal court shall be appointed by the governing body of the City of Gainesville for a term of two years. The solicitor may be removed at any time by the governing body of the City of Gainesville at its sole discretion.

(c) The solicitor and deputy solicitor of the municipal court must be of good moral character and shall have attained the age of 25 years and shall have been admitted to the State Bar of Georgia and shall have practiced law for at least one year at the time of his or her appointment.

(d) The salary of the solicitor shall be fixed by the governing body.

(e) Before assuming office, each solicitor shall take an oath, given by the mayor, that shall be entered upon the minutes of the governing body as required in Section 2.21 of this charter. The oath shall be as follows:

"I do solemnly swear that I will conduct the office of the solicitor of the Municipal Court of Gainesville, Georgia, in accordance with the law, that I will prosecute all cases made in said court to the very best of my ability, and that I will so conduct myself in carrying out the duties of the office in such a manner as will reflect credit upon the municipality in its administration of justice."

Section 4.13. Clerk of court.

(a) There shall be a clerk of the Municipal Court of Gainesville, Georgia, who shall be appointed by the city manager or his or her designee.

(b) The clerk may designate an assistant clerk of the court to assist him or her in the performance of his or her duties.

(c) It shall be the duty of the clerk of the municipal court to perform such duties relative to the operation of the municipal court as the judge shall direct and perform all such other duties as are required or permitted by law or ordinance.

Section 4.14. Convening.

The municipal court shall be convened at regular intervals as provided by ordinance.

Section 4.15. Jurisdiction; powers.

(a) The municipal court shall have jurisdiction and authority to try and punish violations of this charter, all city ordinances, and such other violations as provided by law.

(b) The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$200.00 or ten days in jail.

(c) The municipal court may fix punishment for offenses within its jurisdiction not exceeding a fine of \$1,000.00 or imprisonment for 180 days or both such fine and imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing as now or hereafter provided by law.

(d) The municipal court shall have authority to establish a schedule of fees to defray the cost of operation and shall be entitled to reimbursement of the cost of meals, transportation, and caretaking of prisoners bound over to superior courts for violations of state law.

(e) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as surety for the appearance of persons charged with

violations. Whenever any person shall give bail for that person's appearance and shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge presiding at such time, and an execution issued thereon by serving the defendant and the defendant's sureties with a rule nisi, at least two days before a hearing on the rule nisi. In the event that cash or property is accepted in lieu of bond for security for the appearance of a defendant at trial, and if such defendant fails to appear at the time and place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited to the city or the property so deposited shall have a lien against it for the value forfeited which lien shall be enforceable in the same manner and to the same extent as a lien for city property taxes.

(f) The municipal court shall have the same authority as superior courts to compel the production of evidence in the possession of any party; to enforce obedience to its orders, judgments, and sentences; and to administer such oaths as are necessary.

(g) The municipal court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summonses, subpoenas, and warrants which may be served as executed by any officer as authorized by this charter or by law.

(h) Each judge of the municipal court shall be authorized to issue warrants for the arrest of persons charged with offenses against any ordinance of the city, and each judge of the municipal court shall have the same authority as a magistrate of the state to issue warrants for offenses against state laws committed within the city.

Section 4.16. Certiorari.

The right of certiorari from the decision and judgment of the municipal court shall exist in all criminal cases and ordinance violation cases, and such certiorari shall be obtained under the sanction of a judge of the Superior Court of Hall County under the laws of the State of Georgia regulating the granting and issuance of writs of certiorari.

Section 4.17. Rules for court.

With the approval of the governing body, the judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court; provided, however, that the governing body may adopt in part or in total the rules and regulations applicable to municipal courts. The rules and regulations made or adopted shall be filed with the city clerk, shall be available for public inspection, and, upon request, a copy shall be furnished to all defendants in municipal court proceedings at least 48 hours prior to said proceedings.

Section 4.18. Court personnel administration.

General administration and supervision of the municipal court shall fall under the supervision of the position classification plan.

ARTICLE V. ELECTIONS AND REMOVAL

Section 5.10. Applicability of general law.

All primaries and elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

Section 5.11. Election of the governing body.

(a) There shall be a municipal general election in the odd-numbered years on the Tuesday next following the first Monday in November.

(b) There shall be elected the mayor and two councilmembers at one election and at every other regular election thereafter. The remaining council seats shall be filled at the election alternating with the first election so that a continuing body is created. Terms shall be for four years.

(c) At the regular election in 2013 a mayor shall be elected to take office on January 1, 2014.

(d) At the regular election in 2013, two councilmembers shall be elected to succeed the councilmembers from Wards One and Four whose terms expire December 31, 2013. Said

councilmembers shall take office on January 1, 2014, for terms of four years and until their successors are elected and qualified.

(e) At the regular election in 2015, three councilmembers shall be elected to succeed the councilmembers from Wards Two, Three, and Five whose terms expire December 31, 2015. Said councilmembers shall take office on January 1, 2016, for terms of four years and until their successors are elected and qualified.

(f) Subsequent elections shall comply with subsection (b) of Section 5.11 of this charter.

Section 5.12. Election by majority.

The mayor and councilmembers shall be elected by a majority vote of the voters of the entire City of Gainesville voting at the election. The person receiving a majority of the votes cast for any city office shall be elected.

Section 5.13. Special elections; vacancies.

In the event that the office of mayor or councilmember shall become vacant as provided in Section 2.13 of this charter, the governing body or those remaining shall order a special election to fill the balance of the unexpired term of such official; provided, however, if such vacancy occurs within 12 months of the expiration of the term of that office, the governing body or those remaining shall appoint a successor for the remainder of the term. In all other respects, the special election shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

Section 5.14. Wards.

(a) For the purposes of electing the five councilmembers, the territory of the City of Gainesville shall be divided into five wards to be designated respectively as Wards One through Five. One councilmember shall be a resident of each ward. The boundaries of the five wards shall be those existing on the effective date of the adoption of this charter with such alterations as may be made from time to time in the manner provided by law. The boundaries of each ward at all times shall be shown on a map, a written

description, or any combination thereof, to be retained in the office of the city clerk and to be designated, as the case may be: "Official Map (or Description) of the Election Wards of the City of Gainesville, Georgia." Photographic, typed, or other copies of such map or description certified by the city clerk shall be admitted as evidence in all courts and shall have the same force and effect as with the original map or description.

(b) The governing body shall review the boundaries of the wards established by this section following each United States decennial census. Within a reasonable time after each such census, the governing body shall cause adjustments to be made to the boundary lines of such wards as may be necessary to maintain, as near as practicable, equal population for each of said wards, or reapportion the boundary lines of such wards, if necessary and as authorized by law.

Section 5.15. Other provisions.

Except as otherwise provided by this charter, the governing body shall, by ordinance, prescribe such rules and regulations it deems appropriate to fulfill any options and duties under Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

Section 5.16. Removal of officers.

(a) The mayor or councilmembers provided for in this charter shall be removed from office for any one or more of the causes provided in Title 45 of the O.C.G.A. or such other provisions within this charter or other applicable laws as are or may hereafter be enacted.

(b) Removal of an elected official or appointed officer for violations pursuant to subsection (a) of this section or violations as otherwise provided for in this charter shall be accomplished by one of the following methods:

- (1) Following a hearing at which an impartial panel shall render a decision. In the event an elected official or appointed officer is sought to be removed by the action of the governing body, such officer shall be entitled to a written notice specifying the ground or grounds for removal and to a public hearing which shall be held not

less than ten days after the service of such written notice. The governing body shall provide by ordinance for the manner in which such hearings shall be held. Any elected officer sought to be removed from office as herein provided shall have the right of appeal from the decision of the governing body to the Superior Court of Hall County. Such appeal shall be governed by the same rules as govern appeals to the superior court from the probate court; or

- (2) By an order of the Superior Court of Hall County following a hearing on a complaint seeking such removal brought by any resident of the City of Gainesville.

ARTICLE VI. FINANCE

A. PROPERTY TAXES

Section 6.10. Property tax.

The governing body may assess, levy, and collect an ad valorem tax on all real and personal property within the corporate limits of the City of Gainesville that is subject to such taxation by the state and county. This tax is for the purpose of raising revenues to defray the costs of operating the city government, of providing governmental services, of providing public education, of providing parks and recreation, for the repayment of principal and interest on general obligations, and for any other public purpose as determined by the governing body in its discretion. The taxable property within the limits of said city shall be assessed at 100 percent of its fair market value as determined by general state law.

Section 6.11. Millage rate; due dates; payment methods.

The governing body, by ordinance, shall establish a millage rate for the city property tax, a due date, and the time period within which these taxes must be paid. The governing body, by ordinance, may provide for the payment of these taxes

by two installments or in one lump sum, as well as authorize the voluntary payment of taxes prior to the time when due.

B. OCCUPATION TAXES AND REGULATORY FEES

Section 6.12. Occupation and business taxes.

The governing body by ordinance shall have the power to levy such occupation or business taxes as are not denied by law. The governing body may classify businesses, occupations, or professions for the purpose of such taxation in any way which may be lawful and may compel the payment of such taxes as provided in Section 6.18 of this charter.

Section 6.13. Regulatory fees; permits.

The governing body by ordinance shall have the power to require businesses or practitioners doing business within this city to obtain a permit for such activity from the city and pay a reasonable regulatory fee for such permit as provided by general law. Such fees shall reflect the total cost to the city of regulating the activity and, if unpaid, shall be collected as provided in Section 6.18 of this charter.

Section 6.14. Excise taxes.

The governing body shall have the authority to impose, assess, levy, and collect an excise tax upon the sale, transfer, or dispensing of wine, malt beverages, or distilled spirits by wholesale and retail dealers within the city.

Section 6.15. Franchises.

(a) The governing body shall have the power to grant franchises for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies, and other similar organizations. The governing body shall determine the duration, terms, whether the same shall be exclusive or nonexclusive, and the consideration for such franchises; provided, how-

ever, no franchise shall be granted for a period in excess of 35 years and no franchise shall be granted unless the city receives just and adequate compensation therefor. The governing body shall provide for the registration of all franchises with the city clerk or designee in a recorded format kept by the clerk. The governing body may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

(b) If no franchise agreement is in effect, the governing body has the authority to impose a tax on gross receipts for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies, and other similar organizations.

Section 6.16. Service charges.

The governing body by ordinance shall have the power to assess and collect fees, charges, and tolls for sewers, sanitary, and health services or any other services provided or made available inside and outside the corporate limits of the city. If unpaid, such charges shall be collected as provided in Section 6.18 of this charter.

Section 6.17. Construction; other taxes and fees.

This city shall be empowered to levy any other tax or fee allowed now or hereafter by law, and the specific mention of any right, power, or authority in this article shall not be construed as limiting in any way the general powers of this city to govern its local affairs.

C. COLLECTION OF DELINQUENT TAXES

Section 6.18. Collection of delinquent taxes and fees.

The governing body, by ordinance, may provide generally for the collection of delinquent taxes, fees, or other revenue due the city under Sections 6.10 through 6.17 of this charter by whatever reasonable means as are not precluded by law. This shall include providing for the dates when

the taxes or fees are due; late penalties or interest; issuance and execution of fi.fa.'s; creation and priority of liens; making delinquent taxes and fees personal debts of the persons required to pay the taxes or fees imposed; revoking city permits for failure to pay any city taxes or fees; and providing for the assignment or transfer of tax executions.

D. BORROWING

Section 6.19. General obligation bonds.

The governing body shall have the power to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized under this charter or the laws of the state. Such bonding authority shall be exercised in accordance with the laws governing bond issuance by municipalities in effect at the time said issue is undertaken.

Section 6.20. Revenue bonds.

Revenue bonds may be issued by the governing body as state law now or hereafter provides. Such bonds are to be paid out of any revenue produced by the project, program, or venture for which they were issued.

Section 6.21. Short-term loans.

The city may obtain short-term loans and must repay such loans not later than December 31 of each year, unless otherwise provided by law.

Section 6.22. Lease purchase contracts.

The city may enter into multiyear lease, purchase or lease purchase contracts for the acquisition of goods, materials, real and personal property, services, and supplies provided the contract terminates without further obligation on the part of the municipality at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed. Contracts must be executed in accordance with the requirements of Code Section 36-60-13 of the O.C.G.A. or other such applicable laws as are or may hereafter be enacted.

E. ACCOUNTING AND BUDGETING

Section 6.23. Fiscal year.

The fiscal year of the city government shall begin on the first day of July of each year and shall end on the last day of June of the following year. This fiscal year shall constitute the budget year and the year for financial accounting and reporting of each and every office, department, agency, and activity of the city government unless otherwise provided by state or federal law.

Section 6.24. Preparation of budgets.

The governing body shall provide an ordinance on the procedures and requirements for the preparation and execution of an annual operating budget, a capital improvement plan, and a capital budget, including requirements as to the scope, content, and form of such budgets and plans. The governing body may also approve by resolution additional, supplemental budgetary policies and procedures that shall be consistent with this charter and city code.

Section 6.25. Submission of operating budget to governing body.

The manner of submission of the budget to the council shall be prescribed by ordinance.

Section 6.26. Action by governing body on operating budget.

(a) The governing body may amend the operating budget proposed by the city manager; except that the budget as finally amended and adopted must provide for all expenditures required by state law or by other provisions of this charter and for all debt service requirements for the ensuing fiscal year, and the total appropriations from any fund shall not exceed the estimated fund balance, reserves, and revenues.

(b) The governing body by ordinance shall adopt the final operating budget for the ensuing fiscal year not later than June 30 of each year. If the governing body fails to adopt the budget by this date, the budget as submitted by the city manager shall be deemed adopted for the ensuing fiscal year. Adoption of the budget shall take the form of

an appropriation resolution setting out the estimated revenues in detail by sources and making appropriations according to fund and by organizational unit, purpose, or activity as set out in the budget preparation ordinance adopted pursuant to Section 6.24 of this charter.

(c) The amount set out in the adopted operating budget for each organizational unit shall constitute the annual appropriation for such, and no expenditure shall be made or encumbrance created in excess of the otherwise unencumbered balance of the appropriations or allotment thereof to which it is chargeable.

Section 6.27. Tax levies.

The governing body shall levy by ordinance such taxes as are necessary. The taxes and tax rates set by such ordinances shall be such that reasonable estimates of revenues from such levy shall at least be sufficient, together with other anticipated revenues, fund balances, and applicable reserves, to equal the total amount appropriated for each of the several funds set forth in the annual operating budget for defraying the expenses of the general government of this city.

Section 6.28. Changes in appropriations.

The governing body by resolution may make changes in the appropriations contained in the current operating budget at any regular meeting or special or emergency meeting called for such purpose, but any additional appropriations may be made only in accordance with generally accepted accounting practices.

Section 6.29. Capital budget.

(a) On or before the date fixed by the governing body but no later than 60 days prior to the beginning of each fiscal year, the city manager shall submit to the governing body a proposed capital improvements plan with a recommended capital budget containing the means of financing the improvements proposed for the ensuing fiscal year. The governing body shall have power to accept, with or without amendments, or reject the proposed plan and proposed budget. The governing body shall not authorize an expenditure for the construction of any building, structure, work,

or improvement unless the appropriations for such project are included in the capital budget, except to meet a public emergency as provided in Section 2.25 of this charter.

(b) The governing body shall adopt by resolution the final capital budget for the ensuing fiscal year not later than June 30 of each year. No appropriation provided for in a prior capital budget shall lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned; provided, however, the city manager may submit amendments to the capital budget at any time during the fiscal year, accompanied by recommendations. Any such amendments to the capital budget shall become effective only upon adoption by ordinance.

Section 6.30. Independent audit.

There shall be an annual independent audit of all city accounts, funds, and financial transactions by a certified public accountant or firm of such accountants selected by the governing body. The audit shall be conducted according to generally accepted auditing principles. Any audit of any funds by the state or federal government may be accepted as satisfying the requirements of this charter. Copies of annual audit reports shall be available at printing costs to the public. The governing body may provide for more frequent audits as it deems necessary.

F. PROCUREMENT AND PROPERTY MANAGEMENT

Section 6.31. Contracting procedures.

No contract with the city shall be binding on the city unless:

- (1) It is in writing;
- (2) Has been reviewed as to form by the city attorney;
- (3) It is made or authorized by the governing body and such approval is entered in the governing body minutes of proceedings pursuant to Section 2.21 of this charter or is authorized as part of the budget process; and

- (4) It is executed by the mayor, mayor pro tempore, or city manager whose signature shall cause the city seal to be affixed.

Section 6.32. Centralized purchasing.

The governing body shall by ordinance prescribe procedures for a system of centralized purchasing for the city.

Section 6.33. Sale and lease of city property.

(a) The governing body may sell and convey or lease any real or personal property owned or held by the city for governmental or other purposes as now or hereafter provided by law; provided, however no public utility owned or operated by the city shall be sold by the governing body unless the governing body, by a majority vote with all members participating, first resolve that such utility shall be sold, and, thereafter, the proposed sale is approved by a majority vote of the electors of the City of Gainesville voting in a special election called and held for that purpose.

(b) The governing body may quitclaim any rights it may have in property not needed for public purposes upon report by the city manager and adoption of a resolution, both finding that the property is not needed for public or other purposes and that the interest of the city has no readily ascertainable monetary value.

(c) Whenever in opening, extending, or widening any street, avenue, alley, or public place of the city, a small parcel or tract of land is cut off or separated by such work from a larger tract or boundary of land owned by the city, the governing body may authorize the city manager to sell and convey said cut-off or separated parcel or tract of land to an abutting or adjoining property owner or owners where such sale and conveyance facilitates the enjoyment of the highest and best use of the abutting owner's property. Included in the sales contract shall be a provision for the rights of way of said street, avenue, alley, or public place. Each abutting property owner shall be notified of the availability of the property and given the opportunity to purchase said property under such terms and conditions as set out by ordinance. All deeds and conveyances heretofore and hereafter so executed and delivered shall convey all title

and interest the city has in such property, notwithstanding the fact that no public sale after advertisement was or is hereafter made.

ARTICLE VII. [SCHOOL SYSTEM]

A. SCHOOL DISTRICT CREATED

Section 7.10. Public schools established.

There shall be established, maintained, supported, and provided for by local taxation, and otherwise in the manner provided in this Act and authorized by the laws of the State of Georgia, a system of public schools in and for the City of Gainesville, Hall County, Georgia.

Section 7.11. General powers, school district, board of education.

(a) School district. There is created a body corporate and politic to be known and designated as the "Gainesville City School District."

(b) Board of education.

- (1) Management of school district. The school district shall be under the government, management, and control of a board of education, hereafter referred to as the "board."
- (2) General powers. The board shall possess all powers as are granted to boards of education under the Constitution and general laws of the State of Georgia, together with those other specific additional powers set forth in this Act.
- (3) Title, care, and custody of property. The board is vested with the title, care, and custody of all real or personal property used in the school district for educational purposes or for the administration of the school district, with the power to control such property in such manner as it thinks will best serve the interest of the public schools. Title to the properties known as Centennial Elementary School, Enota Elementary School, Fair Street Elementary School, Gainesville Elementary School, Gainesville Middle School, and Gainesville

High School and all other property associated and under the control of the present Gainesville City School System shall be and is vested in the board, with title to all infrastructure supporting the provision of general governmental services to these tracts including utilities and public roads to remain vested in the city.

(c) Authority to levy ad valorem taxes.

- (1) The board shall annually recommend to the mayor and council of the City of Gainesville the rate of the tax levy, not greater than the mills per dollar authorized and allowed under the laws and Constitution of the State of Georgia, necessary for the support, maintenance, and operation of the public schools of the City of Gainesville. The mayor and council shall levy the tax so certified by the board upon the assessed value of taxable property in the city for the purposes so specified by the board.
- (2) The board shall pay all expenses incurred for the levy and collection of ad valorem taxes for the support and maintenance of education in the school district and may contract for such services as provided in this Act or under Georgia law.
- (3) After complying with the procedure for authorization of bonded debt set forth in Georgia law and applicable to public school districts, the board shall have the power and authority to issue bonds or notes, or both, for capital outlay purposes, which may include buying and improving property for educational purposes and for the construction and maintenance of public schools, administrative offices, and storage, maintenance, transportation, and other facilities established and maintained under the direction of the board, provided that the debt that may be created under this paragraph shall never exceed any limitations established by the Constitution or laws of the State of Georgia. Any millage limitation referred to in this section shall not apply to the school tax levy necessary for the payment of the

bonded indebtedness of the school district and shall apply only to the portion of the school tax levied for the support, maintenance, and operation of the school district.

- (4) The board shall assume the contractual obligations of the city pursuant to the agreement entered into between the city and the Hall County Board of Education on October 20, 1992.

B. EDUCATION WARDS

Section 7.20. Education wards created.

(a) For purposes of electing the five board members, the Gainesville City School District shall be divided into five education wards, to be designated respectively as Education Wards 1 through 5. One member of the board shall be elected from each of the five education wards, with the member from each education ward elected by a plurality vote of the voters voting within that respective ward. The boundaries of the five education wards of the Gainesville City School District shall be and correspond to those five numbered districts shown on a map, described in written format, or any combination thereof, as retained in the office of the Board of Education.

(b) [Text omitted.]

(c) Education Wards 1, 2, 3, 4, and 5 as they existed on January 1, 2012, shall continue to be designated as Education Wards 1, 2, 3, 4, and 5, respectively, but as newly described under this Act, and, on and after the effective date of this Act, such members of the board serving from those former education wards shall be deemed to be serving from and representing their respective wards as newly described under this section.

Editor's note—The provisions of 2012 Ga. Laws (Act No. 347), p. 4050, § 1 amended section 9.20 of the city charter, being 1979 Ga. Laws (Act No. 122), p. 3302. As a new city charter (2012 Ga. Laws (Act No. 475), p. 4870) was enacted at the same legislative session, the amendment has been treated as an amendment to section 7.20 of the new charter. In accordance with instructions of the city, the provisions of subsection (b) and the description of the education wards, all as found in 2012 Ga. Laws (Act No. 347), p. 4050, have not been included herein. The boundaries of the five education wards of the Gainesville School district are shown on a map,

described in written format, or any combination thereof, retained in the office of the Board of Education.

At the direction of the city, the last sentence in subsection (a) of this section has been changed from "The boundaries of the five education wards of the Gainesville City School District shall be and correspond to those five numbered districts described in and attached to and made a part of this Act and further identified as 'Plan: gainesvilleccsb-2012 Plan Type: Local Administrator: Gainesville User: Gina'" to "The boundaries of the five education wards of the Gainesville City School District shall be and correspond to those five numbered districts shown on a map, described in written format, or any combination thereof, as retained in the office of the Board of Education."

Section 7.21. Nonpartisan elections.

All members of the board shall be elected in nonpartisan elections as provided in Code Section 21-2-139 of the O.C.G.A.

Section 7.22. Qualifications and election.

Except as otherwise provided in this Act, the qualification and election of board members shall be in accordance with the requirements of Georgia law governing the nonpartisan election of local school boards.

Section 7.23. Dates of elections and terms of office.

The present members of the board shall continue their present terms representing the education wards from which they were elected. Successor members of the board shall be elected at the City of Gainesville general municipal election and shall serve for four-year terms beginning the first day of January immediately following their election.

Section 7.24. Vacancies.

In the event of a vacancy occurring in the membership of the board for any reason other than the expiration of a term, that vacancy shall be filled as provided in Code Section 20-2-54.1 of the O.C.G.A.

C. BOARD OF EDUCATION

Section 7.30. Powers and duties.

The board shall be vested with all powers, duties, and responsibilities as are granted to boards of education under the Constitution and general laws of the State of Georgia.

Section 7.31. Election and duties of board chairperson.

The members of the board shall, at their first meeting in January of each year, elect from their own membership a chairperson to serve for a term of office of one year. The board shall elect such additional officers as it may deem appropriate to serve for the terms established by the board. A member of the board may be reelected as chairperson. The chairperson shall have all those powers and responsibilities as set forth under the Constitution and laws of the State of Georgia applicable to the office of chairperson of a board of education. The chairperson shall hold office at the will of the board and the board shall be authorized to fill vacancies occurring in that office.

Section 7.32. Compensation of board members.

The board shall determine compensation of its members after holding two separate public hearings to be scheduled to begin between 7:00 P.M. and 8:00 P.M. Any increase in compensation for members of the board shall be implemented July 1 of the following year. Additionally, each member of the board shall be entitled to be reimbursed for actual expenses necessarily incurred in connection with service on the board, including but not limited to travel outside the district on official business or expenses incurred by a member or on behalf of a member to provide technology or equipment necessary for a member to carry out the business of the board. The board must approve any expenses paid to or on behalf of members of the board.

D. SUPERINTENDENT

Section 7.40. Appointment and duties.

The board shall appoint a superintendent and provide the superintendent with an employment contract to establish the compensation and fix the term of employment consistent with the requirements of Georgia law. The superintendent shall have all duties and responsibilities of a superintendent of schools as set forth in the Constitution and general laws of the State of Georgia.

ARTICLE VIII. GENERAL PROVISIONS

Section 8.10. Bonds for officials.

The officers and employees of this city, both elected and appointed, shall execute such surety or fidelity bonds in such amounts and upon such terms and conditions as the governing body shall from time to time require by ordinance or as may be provided by law. Premiums on such bonds shall be paid by the city.

Section 8.11. Prior ordinances.

All ordinances, resolutions, rules, and regulations now in force in the city not inconsistent with this charter are hereby declared valid and of full effect and force until amended or repealed by the governing body.

Section 8.12. General laws may be used.

The governing body, in its discretion, may elect to use the provision of any general laws of the state in addition to the provisions of this charter.

Section 8.13. Pending matters.

Except as specifically provided otherwise by this charter, all rights, claims, actions, orders, contracts, and legal or administrative proceedings shall continue and any such ongoing work or cases shall be completed by such city agencies, personnel, or offices as may be provided by the governing body.

Section 8.14. Construction.

(a) Section captions in this charter are informative only and are not to be considered as a part thereof.

(b) The word "shall" is mandatory and the word "may" is permissive.

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

(d) The term "governing body" shall mean the mayor and city council of the City of Gainesville, Georgia.

Section 8.15. Specific repealers.

An Act incorporating the City of Gainesville, approved April 11, 1979 (Ga. L. 1979, p. 3302), as amended, is hereby repealed in its entirety.

Section 8.16. Preclearance.

The Board of Education of the City of Gainesville shall through its legal counsel cause this Act to be submitted for preclearance under the federal Voting Rights Act of 1965, as amended; and such submission shall be made to the United States Department of Justice or filed with the appropriate court no later than 45 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

Section 8.17. Effective date.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

Section 8.18. General repealer.

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

Passed in House March 14, 2012.

Passed in Senate March 26, 2012.

Approved by Governor April 11, 2012.

