Senate Bill 534

By: Senators Jeffares of the 17th and Jones of the 10th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

To amend an Act incorporating the City of McDonough, approved April 16, 1981 (Ga. L. 1981, p. 3387), as amended, so as to provide for incorporation, boundaries, and powers of the city; to provide for a governing authority of such city and the powers, duties, authority, election, terms, vacancies, compensation, expenses, qualifications, prohibitions, conflicts of interest, and suspension and removal from office relative to members of such governing authority; to provide for the continuation in office of currently serving officers; to provide for inquiries and investigations; to provide for oaths, organization, meetings, quorum, voting, rules, and procedures; to provide for ordinances and codes; to provide for a city administrator, mayor, and mayor pro tempore and certain duties, powers, and other matters relative thereto; to provide for administrative affairs and responsibilities; to provide for boards, commissions, and authorities; to provide for a city attorney, a city clerk, and other personnel and matters relating thereto; to provide for rules and regulations; to provide for a municipal court and the judge or judges thereof and other matters relative to those judges; to provide for the court's jurisdiction, powers, practices, and procedures; to provide for the right of certiorari; to provide for elections; to provide for taxation, licenses, and fees; to provide for franchises, service charges, and assessments; to provide for bonded and other indebtedness; to provide for auditing, accounting, budgeting, and appropriations; to provide for city contracts and purchasing; to provide for the conveyance of property and interests therein; 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 an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

An Act incorporating the City of McDonough, approved April 16, 1981 (Ga. L. 1981, p. 3387), as amended, is amended by repealing Articles I through VII and enacting new articles to read as follows:

"ARTICLE I

INCORPORATION AND POWERS

SECTION 1.10.

Name.

The City of McDonough, Georgia, in the County of Henry and the inhabitants thereof shall continue to be a body politic and corporate under the name and style of the City of McDonough, Georgia. Under the name said city shall continue to be vested with all of the property and rights of property which now belong to the corporation; shall have perpetual succession; may sue and be sued; may contract and be contracted with; may acquire and hold such property; real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to or otherwise acquired by it, and from time to time may hold or invest, sell or dispose of the same; may have a common seal and alter and renew the same at will.

SECTION 1.11.

Corporate boundaries.

(a) The boundaries of the 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 the city at all times shall be shown on a map, a written description or any combination thereof, to be retained permanently in the office of the City Clerk and to be designated as: 'Official Map of the corporate limits of the City of McDonough, 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 mayor and council 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 that it is designated to replace.

SECTION 1.12.

Examples of powers.

The corporate powers of this city may include, but shall not be limited to, the following:

(1) Property taxes. To levy and to provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation;

(2) Other taxes. To levy and collect such other taxes as may be allowed now or in the future by state law;

(3) Business regulation and taxation. To levy and to provide for the collection of license fees and taxes on privileges, occupations, trades, and professions; to license and regulate the same; to provide for the manner and method of payment of such licenses and taxes; and to revoke such licenses after due process for failure to pay any city taxes or fees;

(4) Appropriations and expenditures. To make appropriations for 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;

(5) 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;

(6) Municipal property ownership. To acquire, dispose of, 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;

(7) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for any purpose related to the 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;

(8) 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, under Titles 22 and 32 of the O.C.G.A., as amended, or under other applicable laws as are or may be enacted or amended;

(9) 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, gas works, electric light plants, transportation facilities, public airports, and any other public utility; to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties and withdrawal of service for refusal or failure to pay same and the manner in which such remedies shall be enforced;

(10) Public utilities and services. To grant franchises or make contracts for public utilities and public services; 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 such regulations by the Georgia Public Service Commission;

(11) 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, otherwise improve, maintain, repair, clean, prevent erosion of, and light 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;

(12) Public improvements. To provide for the acquisition, construction, building, operation and maintenance of public ways, parks and playgrounds, recreational facilities, cemeteries, markets and market houses, public buildings, libraries, public housing, airports, hospitals, terminals, docks, parking facilities, or charitable, cultural, educational, recreational, conservation, sport, curative, corrective, detentional, penal and medical institutions, agencies, and facilities; and any other public improvements, inside or outside the corporate limits of the city; and to regulate the use thereof, and for such purposes, property may be acquired by condemnation under Titles 22 and 32 of the O.C.G.A., as amended, or under other applicable laws as are or may be enacted or amended;

(13) Sidewalk maintenance. To require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands; and to enact ordinances establishing the terms and conditions under which such repairs and maintenance shall be effected, including the penalties to be imposed for failure to do so;

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

(15) Planning and zoning. To provide such comprehensive city planning for development by zoning, subdivision regulation and the like as the mayor and city council deems necessary and reasonable to insure a safe, healthy, and aesthetically pleasing community;

(16) Public peace. To provide for the prevention and punishment of drunkenness, riots, and public disturbances;

(17) Special areas of public regulation. To regulate or prohibit junk dealers; pawn shops; the manufacture, sale or transportation of alcoholic beverages; the use and sale of firearms; 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 trades, theatrical performances, exhibitions, shows of any kind whatever, by taxation or otherwise; to license, tax, regulate, or prohibit professional fortune-telling, palmistry, adult bookstores, and massage parlors;

(18) 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;

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

(20) Air and water pollution. To regulate the emission of smoke or other exhaust which pollutes the air and to prevent the pollution of natural streams which flow within the corporate limits of the city;

(21) Fire regulations. To fix and establish fire limits and from time to time to extend, enlarge, or restrict 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 violation thereof;

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

(23) 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;

(24) Garbage fees. To levy, fix, assess, 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;

(25) Sewer fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring, constructing, equipping, operating, maintaining, and extending of a sewage disposal plant and sewerage system, and to levy on the users of sewers and the sewerage system a sewer service charge, fee, or sewer tax for the use of the sewers; and to provide for the manner and method of collecting such service charges, and for enforcing payment of same; to charge, impose, and collect a sewer connection fee or fees, and to charge the same from time to time; such fees to be levied on the users connecting with the sewerage system;

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

(27) 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;

(28) Jail sentences. To provide that persons given jail sentences in the city's court may work out such sentence in any public works or on the streets, roads, drains, 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 jail by agreement with the appropriate county officials;

(29) Animal regulations. To regulate and license, or 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; also to provide for their disposition by sale, gift, or humane disposal, when not redeemed as provided by ordinance; to provide punishment for violation of ordinances enacted hereunder;

(30) 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;

(31) 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 and rent parking spaces in public ways for the use of such vehicles;

(32) Pensions. To provide and maintain a system of pensions and retirement for officers and employees of the city;

(33) Special assessments. To levy and provide for the collection of special assessments to cover the costs for any public improvements;

(34) Contracts. To enter into contracts and agreements with other governmental entities and with private persons, firms, and corporations providing for services to be made therefor;

(35) City 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 same;

(36) Penalties. To provide penalties for violations of any ordinance adopted pursuant to the authority of this charter and the laws of the State of Georgia;

(37) Police and fire protection. To exercise the power of arrest through duly appointed policemen and to organize and operate a fire fighting agency;

(38) Emergencies. To establish procedures for determining and proclaiming that an emergency situation exists within or without 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;

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

(40) Public transportation. To organize such public transportation systems as are deemed beneficial;

(41) 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;

(42) Cutting and removal of weeds, vegetable growth and debris. To require the owner, or his duly authorized agent, of any lot, tract, parcel of land or premises in the city to cut and remove from the same, any and all weeds, vegetable growth or debris thereon which might endanger the public health or safety; to provide notice to such owner, or the owner's duly authorized agent, that if the weeds or vegetable growth or debris are not cut or removed, the city may cut or remove the same and charge the expenses of the same to the said owner. The mayor and council shall have authority to enforce the collection of the charges for cutting or removing weeds or vegetable growth or debris when such charges are due and remain unpaid for a period of 30 days, by execution to be issued by the clerk against the owner or owners of the premises from which the weeds or vegetable growth or debris are cut or removed and such other persons as may be liable therefor. The said execution shall be a lien upon the said premises and, when recorded in the general execution docket of Henry County, Georgia, shall be a lien upon all of the property of the defendant in execution from the date of such record; and

(43) 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 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. 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 1.13.

Exercise of powers.

All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or employees may be exercised as provided by this charter. If this charter makes no provision, such may be exercised as provided by ordinance or as provided by pertinent state laws.

ARTICLE II

GOVERNING BODY

SECTION 2.10.

Creation; composition; number; election.

The governing authority of this city shall be composed of a mayor and six councilmembers who shall be elected in the manner provided by Article V of this charter. The mayor and councilmembers serving on the effective date of this charter shall continue to serve for the remainder of their terms and until their successors are duly elected and qualified.

SECTION 2.11.

Terms and qualification for office.

Except as otherwise provided for their initial terms, the members of the governing body 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 he or she shall have been a resident of the city for a period of one year immediately prior to the date of the election of the mayor or members of the council and shall continue to reside therein during his or her period of service and shall be registered and qualified to vote in municipal elections of this city.

SECTION 2.12.

Vacancy; filling of; forfeiture of office.

(a) The office of mayor or councilmember shall become vacant upon:

(1) The incumbent's death;

(2) Resignation when accepted;

(3) Decision of a competent tribunal declaring the office vacant;

(4) The incumbent ceasing to be a resident of the city or of the district for which he or she was elected;

(5) Abandoning the office and ceasing to perform its duties or either; or

(6) Forfeiture of office or removal from office in any manner authorized by this charter or the laws of the State of Georgia.

(b) A vacancy in the office of mayor or councilmember shall be filled for the remainder of the unexpired term, if any, as provided for in Article V in this charter.

(c) The mayor or any councilmember shall forfeit his or her office if he or she:

(1) Lacks at any time during his term of office any qualifications of the office as prescribed by this charter or the laws of the State of Georgia;

(2) Willfully and knowingly violates any express prohibition of this charter; or

(3) Is convicted of a crime involving moral turpitude.

SECTION 2.13.

Compensation and expenses.

The salaries of the mayor and council shall be fixed by said mayor and council in January next following the city's election except as otherwise limited by the general laws of the State of Georgia. The mayor and councilmembers shall be entitled to receive their actual and necessary expenses incurred in the performance of their duties.

SECTION 2.14.

Prohibitions.

Except as authorized by law, neither the mayor nor any member of the council shall hold any other elective city office or city employment during the term for which he or she was elected, and neither the mayor nor any member of the council shall vote upon any question in which he or she is personally interested.

SECTION 2.15.

Code of ethics.

The mayor and council may enact by ordinance a code of ethics which shall apply to all elected officials, appointed officers and employees of this city.

SECTION 2.16.

Inquiries and investigations.

The mayor and council 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 mayor and council shall be punished as provided by ordinance.

SECTION 2.17.

General power and authority of the mayor and council.

(a) Except as otherwise provided by law or by this charter, the mayor and council shall be vested with all the powers of government of this city as provided by Article I of this charter.

(b) In addition to all other powers conferred upon it by law, the mayor and council shall have the authority to adopt and provide for the creation of such ordinances, resolutions, rules and regulations, not inconsistent with this charter, 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, property, health, welfare, sanitation, comfort, convenience, prosperity, or well-being of the inhabitants of this city. The mayor and council may enforce such ordinances by imposing penalties for the violation thereof.

(c) The mayor and council may, by ordinances, create, change, alter, abolish, or consolidate offices, agencies and departments of the city and may assign additional functions to any of the offices, agencies and departments expressly provided for by this charter.

SECTION 2.18.

Chief executive officer.

The mayor shall be the chief executive of this city. He shall possess all of the executive and administrative powers granted to the city under the Constitution and State of Georgia, and all the executive and administrative powers contained in this charter.

SECTION 2.19.

Powers and duties of mayor.

As the chief executive of this city the mayor:

(1) Shall see that all laws and ordinances of the city are faithfully executed;

(2) Shall preside at all meetings of the mayor and council;

(3) Reserved;

(4) Shall exercise supervision over all executive and administrative work of the city and provide for the coordination of administrative activities;

(5) Reserved;

(6) Reserved;

(7) May recommend to the council such measures relative to the affairs of the city, improvement of the government, and promotion of the welfare of its inhabitants as he may deem expedient;

(8) May call special meetings of the council as provided for in Section 2.22(b);

(9) May examine and audit all accounts of the city;

(10) May require any department or agency of the city to submit written reports whenever he or she deems it expedient; and

(11) Shall perform other duties as may be required by general state law, this charter or ordinance.

SECTION 2.20.

Mayor pro tem; selection; duties.

Following any induction of new members, the mayor and council shall elect by majority vote from among its members a mayor pro tem who shall assume the duties and powers of the mayor upon the mayor's disability or absence. The mayor pro tem shall serve for a term of one year and until his or her successor is elected and qualified. The mayor and council shall elect an acting mayor pro tem from among its members for any period in which the mayor pro tem is disabled, absent, or acting as mayor. Any such absence, action, or disability shall be declared by majority vote of all members of the mayor and council.

SECTION 2.21.

Organization meeting.

The mayor and council shall meet for organization on the first scheduled meeting in January next following the city election. The meeting shall be called to order and the oath of office shall be administered to the newly elected members as follows:

'I do solemnly swear that I will well and truly perform the duties of (mayor or councilmember as the case may be) of this city 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.'

SECTION 2.22.

Regular and special meetings.

(a) The mayor and council shall hold regular meetings at such times and places as prescribed by ordinance. The mayor and council may recess any regular meeting and continue such meeting on any weekday or hour it may fix and may transact any business at such continued meeting as may be transacted at any regular meeting.

(b) Special meetings of the mayor and council may be held on call of the mayor or two members of the council. Notice of such special meetings shall be served on all other members personally, or by telephone, or shall be left at their residence in advance of the meeting. Such notice shall not be required if the mayor and all councilmembers are present when the special meeting is called. Notice of any special meeting may be waived in writing before or after such meeting and attendance at the meeting shall constitute a waiver of notice of any special meeting. Only the business stated in the call may be transacted at the special meeting except by unanimous consent of all members present. With such consent, any business which may be transacted at a regular meeting may be conducted at the special meeting.

(c) All meetings of the mayor and council shall be public to the extent required by general state law.

SECTION 2.23.

Rules of procedure.

The mayor and council shall adopt its rules of procedure and order of business consistent with the provisions of this charter and shall provide for keeping a journal of its proceedings which shall be a public record.

SECTION 2.24.

Quorum; voting.

(a) For transaction of all business, except as otherwise provided in this charter, the mayor and three councilmembers shall constitute a quorum. The vote of four councilmembers shall decide any question. Alternatively, the vote of three councilmembers and the mayor shall decide any question.

(b) Voting on the adoption of ordinances shall be taken by voice or electronically. The ayes and nays shall be recorded in the minutes, but the mayor or any member of the council shall have the right to request a roll-call vote, except as otherwise provided in this charter.

SECTION 2.25.

Action requiring an ordinance.

Acts of the mayor and council that have the force and effect of law shall be enacted by ordinance.

SECTION 2.26.

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 that is not expressed in its title. The enacting clause shall be 'It is hereby ordained by the governing authority of the City of McDonough' and every ordinance shall so begin.

(b) An ordinance may be introduced by the mayor or any councilmember and be read at a regular or special meeting of the city council. Ordinances shall be considered and adopted or rejected by the mayor and council in accordance with the rules that it shall establish. Upon introduction of any ordinance, the clerk shall as soon as possible distribute a copy to the mayor and to each councilmember and shall file a reasonable number of copies in the office of the clerk and at such other public places as the mayor and council may designate.

SECTION 2.27.

Codes of technical regulations.

The mayor and council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance.

SECTION 2.28.

Signing; authenticating;

recording; printing.

(a) The city clerk may authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances adopted by the mayor and council. Every ordinance may be signed by the mayor after adoption.

(b) The mayor and council may cause each ordinance and each amendment to this charter to be printed promptly following its adoption. The ordinances and charter amendments may be printed in substantially the same style as the code currently in effect and may be suitable in form for incorporation therein. The mayor and council may make such further arrangements as deemed desirable with respect to reproduction and distributions of any current changes in or additions to codes of technical regulations and other rules and regulations included in the code.

ARTICLE III

ADMINISTRATIVE AFFAIRS

SECTION 3.10.

Administrative and service departments.

(a) Except as otherwise provided in this charter, the mayor and council shall prescribe the functions or duties and establish, abolish, or alter all nonelective offices, positions of employment, departments and agencies of the city, as necessary for the proper administration of the affairs and government of this city.

(b) Except as otherwise provided by this charter or general state law, department heads and other appointed officers of the city shall be appointed solely on the basis of their respective administrative and professional qualifications as shall be prescribed by the governing authority.

(c) All appointive officers and department heads shall receive such compensation as prescribed by the mayor and council.

(d) There may be a director of each department or agency who shall be its principal officer. Each director shall, subject to direction and supervision of the city administrator, be responsible for the administration and direction of the affairs and operations of his department or agency.

SECTION 3.11.

Boards, commissions and authorities.

(a) The mayor and council shall create, by ordinance, such boards, commissions, and authorities to fulfill any investigative, quasi-judicial or quasi-legislative function the mayor and council deems necessary and shall, by ordinance, 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 and council for such terms of office and in such manner as shall be provided by ordinance, except where other appointing authority, term of office or manner of appointment is prescribed by this charter or general state law.

(c) The mayor and council may provide for the compensation and reimbursement for actual and necessary expenses of the members of any board, commission, or authority.

(d) 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 general state law.

(e) Any member of a board, commission, or authority of the city may be removed from office for cause by a majority vote of the mayor and council.

(f) Except as otherwise provided by this charter or by general state law, each board, commission, or authority of the city shall elect one of its members as chairman and one member as vice chairman 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 by-laws, rules and regulations, not inconsistent with this charter, ordinances of the city, or general state law, as it deems appropriate and necessary for the fulfillment of its duties or the conduct of its affairs, copies of which shall be filed with the clerk of the city.

SECTION 3.12.

City attorney.

The mayor and council may 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:

(1) Shall be responsible for representing and defending the city in all litigation in which the city is a party;

(2) May be the prosecuting officer in the municipal court;

(3) Shall attend the meetings of the mayor and council as directed;

(4) Shall advise the council, mayor and other officers and employees of the city concerning legal aspects of the city's affairs; and

(5) Shall perform such other duties as may be required of him by virtue of his position as city attorney.

SECTION 3.13.

City clerk.

The mayor and council shall appoint a city clerk to keep a journal of the proceedings of the city council and to maintain in a safe place all records and documents pertaining to the affairs of the city and to perform such other duties as may be required by law or as the council may direct.

SECTION 3.14.

Tax collector.

The mayor and council may appoint a tax collector to collect all taxes, licenses, fees and other moneys belonging to the city subject to the provisions of this charter and the ordinances of the city; and the tax collector shall diligently comply with and enforce all general laws of the State of Georgia relating to the collection, sale, or foreclosure of taxes by municipalities.

SECTION 3.15.

City accountant.

The mayor and council may appoint a city accountant to perform the duties of an accountant.

SECTION 3.16.

Consolidation of functions.

The mayor and council may consolidate any two or more of the positions of city clerk, city tax collector and city accountant or any other positions or may assign the functions of any one or more of such positions to the holder or holders of any other positions.

SECTION 3.17.

Position classification and pay plans.

The city administrator may be responsible for the preparation of a position classification and pay plan which shall be submitted to the mayor and council for approval. Said 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 mayor and council shall not increase or decrease the salaries of individual employees except by amendment of said pay plan. For purposes of this section, all elected and appointed city officials are not city employees.

SECTION 3.18.

Personnel policies.

The mayor and council may adopt rules and regulations consistent with this charter concerning:

(1) The method of employee selection and probationary periods of employment;

(2) The administration of the position classification and pay plan, methods of promotion and application of service ratings thereto, and transfer of employees within the classification plan;

(3) Hours of work, vacation, sick leave and other leaves of absence, overtime pay, and the order and manner in which layoff shall be effected;

(4) Such dismissal hearings as due process may require; and

(5) Such other personnel policies as may be necessary to provide for adequate and systematic handling of personnel affairs.

ARTICLE IV

MUNICIPAL COURT

SECTION 4.10.

Creation.

There is hereby established a court to be known as the 'Municipal Court, City of McDonough' which shall have jurisdiction and authority to try offenses against the laws and ordinances of said city and to punish for a violation of the same. Such court shall have the power to enforce its judgments by the imposition of such penalties as may be provided by the laws of Georgia, to subpoena witnesses, to punish witnesses for nonattendance, and to try all offenses occurring within the territorial limits of the city, including traffic cases

which under the laws of Georgia are now or hereafter placed within the jurisdiction of municipal or police courts to the extent of and in accordance with the provisions of such laws and all laws subsequently enacted amendatory thereof. The presiding officer of such court shall be known as the judge. The court shall be convened at such times as designated by ordinance or at such times as deemed necessary to keep current the dockets thereof.

SECTION 4.11.

Chief judge; associate judge.

(a) The municipal court shall be presided over by a chief judge 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 21 years, shall be a member of the State Bar of Georgia and shall possess all qualifications required by law. All judges shall be appointed by the mayor and council and shall serve until a successor is appointed and qualified.

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

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

(e) Before assuming office, each judge shall take an oath, given by the mayor, that the judge will honestly and faithfully discharge the duties of the office to the best of that person's ability and without fear, favor, or partiality. The oath shall be entered upon the minutes of the mayor and council.

SECTION 4.12.

Jurisdiction.

(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 operations, 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 4.13.

Right of certiorari.

The right of certiorari to the superior court from the municipal court shall lie in the same manner and under the same procedure as prescribed for certiorari to the various justice courts of the state.

SECTION 4.14.

Vacancy in office.

(a) In the event of absence, sickness, or disqualification of the judge or vacancy in such office, a judge pro tempore appointed by the mayor and council may preside over the

municipal court and hear and try all cases therein, and in the performance of said office shall be clothed with the same powers and authority as are granted to the judge under this charter and the laws of the State of Georgia. The mayor and council are empowered to provide for the compensation of any such person appointed to preside over said court as herein provided.

(b) Any person being considered for appointment as judge pro tempore must also meet the qualifications set out in Section 4.11 of this charter.

ARTICLE V
ELECTIONS
SECTION 5.10.
Applicability of general law.

All elections, including special elections, shall be held and conducted in accordance with applicable provisions of Title 21 of the O.C.G.A., as now or hereafter amended, and any other applicable law.

SECTION 5.11.
Election of mayor and council.

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

(b) There shall be elected the mayor, one at large councilmember, and councilmembers for Districts One and Two at one election and at every other regular election thereafter. The remaining three councilmember seats, consisting of one at large councilmember and councilmembers for Districts Three and Four, 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) The person receiving a plurality of the votes for any city office shall be elected.

SECTION 5.12.
Special elections; vacancies.

In the event that the office of mayor or any councilmember shall become vacant for any cause whatsoever, the mayor and city council or those remaining shall order a special election to fill the balance of the unexpired term of such office; provided, however, if such vacancy occurs within 12 months of the expiration of the term of that office, the mayor and council or those remaining shall not be required to call an election to fill the vacancy.

SECTION 5.13.

Nonpartisan elections.

Political parties shall not conduct primaries for city offices and all names of candidates for city offices shall be listed without party labels.

SECTION 5.14.

City council districts; adjustment of districts.

There shall be four city council districts. The election districts in effect on the effective date of this Act are incorporated by reference and shall remain in effect until lawfully amended.

SECTION 5.15.

Grounds for removal.

The mayor, councilmembers, or others provided for in this charter shall be removed from office for any one or more of the following causes:

(1) Incompetence, misfeasance or malfeasance in office;

(2) Conviction of a crime involving moral turpitude;

(3) Failure at any time to possess any of the qualifications of office as provided by this charter or by law;

(4) Knowingly violate any express prohibition of this charter;

(5) Abandonment of office or neglect to perform the duties thereof; or

(6) Failure for any other cause to perform the duties of office as required by this charter or by state law.

SECTION 5.16.

Procedure for removal.

Removal of an above described officer may be accomplished by one of the following methods:

(1) By majority vote of the mayor and council after an investigative hearing, the officer to be removed not voting if he is the mayor or a member of the council. In the event an elected officer is sought to be removed by the action of the mayor and council, such officer shall be entitled to a written notice specifying the ground for removal and to a public hearing which shall be held not less than ten days after the service of such written

notice. Any elected officer sought to be removed from office as herein provided shall have the right of appeal from the decision of the mayor and council to the Superior Court of Henry County. Such appeal shall be governed by the same rules as govern appeals to the superior court from the probate court; or

(2) By information filed in the Superior Court of Henry County as provided by state law.

ARTICLE VI

FINANCE

SECTION 6.10.

Property tax.

The mayor and council may assess, levy, and collect an ad valorem tax on all real and personal property within the corporate limits of the city 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; providing governmental services; for the repayment of principal and interest on general obligations; and for any other public purpose as determined by the mayor and council in its discretion.

SECTION 6.11.

Millage rate, due dates,

payment methods.

The mayor and council, by ordinance, shall establish a millage rate for the city property tax; a due date; and in what length of time these taxes must be paid. The mayor and council, by ordinance, may provide for the payment of these taxes by installments or in one lump sum, as well as to authorize the voluntary payment of taxes prior to the time when due. The tax rate set by such ordinance 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 approximated for each of the several funds set forth in the annual operating budget for defraying the expenses of the general government of the city.

SECTION 6.12.

Occupation and business taxes.

The mayor and council, by ordinance, shall have the power to levy such occupation or business taxes as are not denied by applicable law. Such taxes may be levied on both

individuals and corporations who transact business in this city or who practice or offer to practice any profession or calling therein to the extent such persons have a constitutionally sufficient nexus to this city to be so taxed. The mayor and council may classify businesses, occupations, professions or callings for the purpose of such taxation in any way which may be lawful and compel the payment of such taxes as provided in this article.

SECTION 6.13.

Licenses; permits; fees.

The mayor and council, by ordinance, shall have the power to require any individuals or corporations who transact business in this city or who practice or offer to practice any profession or calling therein to obtain a license or permit for such activity from the city and pay a reasonable fee for such license or permit where such activities are not now regulated by general state law in such a way as to preclude city regulation. Such fees may reflect the total cost to the city of regulating the activity and if unpaid shall be collected as provided in this article for delinquent taxes and fees. The mayor and council, by ordinance, may establish reasonable requirements for obtaining or keeping such licenses as the public health, safety, and welfare necessitates.

SECTION 6.14.

Service charges.

The mayor and council, by ordinance, shall have the power to assess and collect fees, charges and tolls for sewer, sanitary, health services or any other services rendered within and without the corporate limits of the city for the total cost of the city of providing such services. If unpaid, such charges shall be collected as provided in this article for delinquent taxes and fees.

SECTION 6.15.

Special assessments.

The mayor and council shall have the power and authority to assess all or part of the cost of constructing, reconstructing, widening or improving any public way, street, sidewalk, curbing, gutters, sewers or other utility mains and appurtenances, from the abutting property owners, under such terms and conditions as may be prescribed by ordinance. Such special assessments shall become delinquent 30 days after their due dates, shall thereupon be subject, in addition to fi. fa. charges, to a penalty of 10 percent, and shall

thereafter be subject to interest at the rate or rates now or hereafter provided by the laws of the State of Georgia from the date due until paid. A lien shall exist against the abutting property superior to all other liens except that it shall be of equal dignity with liens for county and city property taxes. Said lien shall also be enforceable by the same procedures and under the same remedies as provided for in this article for city property taxes.

SECTION 6.16.

Construction; other taxes.

This city shall be empowered to levy any other tax allowed now or hereafter by state law, including but not limited to the insurance premium tax at the maximum rate allowable 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.

SECTION 6.17.

Collection of delinquent taxes and fees.

The mayor and council, by ordinance, may provide generally for the collection of delinquent taxes, fees, or other revenue due the city by whatever reasonable means as are not precluded by general state law. This shall include providing for the dates when the taxes or fees are due; late penalties or interest; issuance and execution of fi. fas.; 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 licenses for failure to pay any city taxes or fees; allowing exceptions for hardship; and providing for the assignment or transfer of tax executions.

SECTION 6.18.

Transfer of executions.

The city clerk shall be authorized to assign or transfer any fi. fa. or execution issued for any tax or for any street, sewer or other assessment in the same manner and to the same extent as provided by Georgia law regarding sales and transfers of fi. fas. Such transfer or assignment, when made, shall vest the purchaser or transferee with all right, title and interest as provided by Georgia law governing sales and transfers of tax fi. fas.; provided, however, that upon levy of execution and sale of property pursuant to such tax fi. fa., whether assigned, transferred or executed by the city, the owner of such property in fee simple or lesser interest shall not lose his right to redeem the property in accordance with

the requirements of redemption of property sold under state or county ad valorem tax fi. fas., as said requirements now exist or as may be hereinafter provided by law.

SECTION 6.19.

General obligation bonds.

The mayor and council 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 general laws of the state. Such bonding authority shall be exercised in accordance with the laws governing bond issuances by municipalities in effect at the time said issue is undertaken.

SECTION 6.20.

Revenue bonds.

Revenue bonds may be issued by the mayor and council as provided by an act of the General Assembly of Georgia, approved March 31, 1937, known as the Revenue Bond Law (Ga. Laws 1937, page 761), as now or hereafter amended, or by any other Georgia law as now or hereafter provided.

SECTION 6.21.

Short-term notes.

The city must obtain and repay any short-term loans between January 1 and December 31 of each year or as is otherwise provided by present or future state law.

SECTION 6.22.

Fiscal year.

The mayor and council shall set the fiscal year by ordinance. The 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 general state or federal law.

SECTION 6.23.

Preparation of budgets.

The mayor and council may provide an ordinance on the procedures and requirement for the preparation and execution of an annual operating budget capital improvement program, and a capital budget including requirements as to the scope, content, and form of such budgets and programs.

SECTION 6.24.

Additional appropriations.

The mayor and council may make appropriations in addition to those contained in the current operating budget at any regular meeting or at any special meeting called for such purpose. Any such additional appropriations, however, may be made only from an existing unappropriated surplus in the fund to which it applies.

SECTION 6.25.

Capital improvements budget.

(a) The city administrator may submit to the mayor and council a proposed capital improvements budget with his or her recommendation as to the means of financing the improvements proposed for the ensuing fiscal year. The mayor and council shall have power to accept with or without amendments or reject the proposed program and proposed means of financing. The mayor and council 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 improvements budget, except to meet a public emergency threatening the lives, health or property of the city's inhabitants, provided that such authorization is passed by a majority vote of the mayor and council.

(b) No appropriation provided for in the capital improvements budget shall lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned; provided, however, that the city administrator may submit amendments to the capital improvements budget, accompanied by his recommendations thereon, at any time during the fiscal year. Any such amendments to the capital improvements budget shall become effective only upon adoption by a vote of the mayor and council.

SECTION 6.26.

Independent audit.

There shall be an annual, independent audit of all city accounts, funds, and financial transactions by a qualified public accountant selected by the mayor and council. The audit shall be conducted according to generally accepted governmental accounting principles. Any audit of any funds by the state or federal governments may be accepted as satisfying the requirements of this charter.

SECTION 6.27.

Contracting procedures.

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

(1) It is in writing; and

(2) It is made or authorized by the mayor and council and such approval is entered in the council minutes.

SECTION 6.28.

Centralized purchasing.

The mayor and council may, by ordinance, prescribe procedures for a system of centralized purchasing for the city.

SECTION 6.29.

Sale of city property.

The mayor and council may sell and convey any real or personal property owned or held by the city for governmental or other purposes as provided by general state law, Chapter 37 of Title 36 of the O.C.G.A., or any other applicable laws.

ARTICLE VII

GENERAL PROVISIONS

SECTION 7.10.

Eminent domain.

The mayor and council are hereby empowered to acquire, construct, operate, and maintain public ways, parks, public grounds, cemeteries, markets, market houses, public buildings,

libraries, sewers, drains, sewage treatment, waterworks, electrical systems, gas systems, airports, hospitals and charitable, educational, recreational, sport, curative, corrective, detentional, penal and medical institutions, agencies, and facilities and any other public improvements inside or outside the city; and to regulate the use thereof, and for such purposes, property may be taken under Titles 22 and 32 of the O.C.G.A., subject to such amendments as shall be enacted, or any other law applicable now or provided in the future.

SECTION 7.11.

Franchises.

The mayor and council 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, cable television, gas companies, transportation companies and other similar organizations. The mayor and council shall determine the duration, provisions, terms, whether the same shall be exclusive or nonexclusive, and the consideration for such franchises; provided, however, no franchise shall be granted for a period in excess of 15 years and no franchise shall be granted unless the city receives just and adequate compensation therefor. The mayor and council shall provide for the registration of all franchises with the city clerk in a registration book to be kept by him or her. The mayor and council may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

SECTION 7.12.

Official bonds.

The officers and employees of the city, both elective and appointive, shall execute such official bonds in such amounts and upon such terms and conditions as the mayor and council shall from time to time require by ordinance or as may be provided by state law.

SECTION 7.13.

Penalties.

The violation of any provisions of this charter, for which penalty is not specifically provided for herein, shall be punishable by a fine of not more than $1,000.00 or by imprisonment not to exceed six months or both such fine and imprisonment.

SECTION 7.14.

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 intended to be mandatory and the word 'may' is not.

(c) The word 'city' shall mean the City of McDonough, Georgia.

(d) The word 'council' shall mean the city council of this city.

(e) The singular shall include the plural and the masculine the feminine and vice versa.″

SECTION 2.

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

SECTION 3.

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