House Bill 1797 (AS PASSED HOUSE AND SENATE)

By: Representatives Hill of the 16th, Lewis of the 12th, Franklin of the 17th, Knox of the 14th, Post 1, Murphy of the 14th, Post 2, and others

A BILL TO BE ENTITLED

AN ACT

To amend an Act providing a new charter for the City of Waleska, approved May 4, 1992 (Ga. L. 1992, p. 6774), so as to change certain provisions regarding corporate boundaries; to change certain provisions regarding municipal powers; to change certain provisions regarding municipal elections; to change certain provisions regarding council creation; to change certain provisions regarding vacancies; to change certain provisions regarding corporation and expenses; to change certain provisions regarding prohibitions, conflicts of interest, and removal; to change certain provisions regarding general powers and authority; to change certain provisions regarding organization; to change certain provisions regarding ordinances; to change certain provisions regarding powers and duties of the mayor; to change certain provisions regarding the city attorney; to authorize certain contracts for the providing of municipal court functions and services; to change certain provisions regarding franchises; to change certain provisions regarding operating budgets; to change certain provisions regarding budget adoption; to change certain provisions regarding capital improvements budgets; to change certain provisions regarding sale of property; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

An Act providing a new charter for the City of Waleska, approved May 4, 1992 (Ga. L. 1992, p. 6774), is amended by striking Section 1.11 and inserting in its place a new Section 1.11 to read as follows:

"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 by local law or in

the manner provided by general state law. The boundaries of this city shall be at all times shown on a map, a written description, or any combination thereof, to be retained permanently in the office of the city clerk of the city and to be designated, as the case may be: ' Official Map or Description of the Corporate Limits of the City of Waleska, Georgia.' Photographic, typed, or other copies of such map or description certified by the mayor shall be admitted as evidence in all courts and shall have the same force and effect as the original map or description.

(b) The mayor and city council may provide for the redrawing of any such map by ordinance to reflect lawful changes in the corporate boundaries. A redrawn map shall supercede for all purposes the entire map or maps, which it is designated to replace.″

SECTION 2.

Said Act is further amended by striking Section 1.12 and inserting in its place a new Section 1.12 to read as follows:

″SECTION 1.12.

Municipal powers.

(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. These powers shall include, but not be limited to, the following:

(1) 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;

(2) 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 under this charter;

(3) 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;

(4) Building regulation. To regulate and to license 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 and building trades;

(5) Business regulation and taxation. To levy and to provide for collection of regulatory fees and taxes on privileges, occupations, trades, and professions as authorized by Title 48 of the O.C.G.A. or such other 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;

(6) 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. or such other applicable laws as are now or may hereafter be enacted;

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

(8) Emergencies. To establish procedures for determining and proclaiming that an emergency situation exists within 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;

(9) Eminent domain. The city is 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, heliports, commuter rail, 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;

(10) Environmental protection. To protect and preserve the natural resources, environment, and vital areas of 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 and hazardous waste, and other necessary actions for the protection of the environment;

(11) Fees. To establish fees and assessments of special districts for the purpose of business improvement districts;

(12) 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;

(13) 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 in the city 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;

(14) 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;

(15) 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;

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

(17) Jail sentences. To provide that persons given jail sentences in the municipal court may work out such sentences 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; or to provide for commitment of such persons to any county work camp or county jail by agreement with the appropriate county officials;

(18) 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;

(19) 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;

(20) 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;

(21) 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;

(22) 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, 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;

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

(24) Ordinances, rules and regulations and plans. To make, establish, and adopt such bylaws, ordinances, policies, and rules and regulations as shall appear necessary for the security, welfare, convenience, and interest of the city and the inhabitants thereof, and for preserving the health, peace, order, and good government of the city;

(25) 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;

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

(27) 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;

(28) Public hazards; removal. To provide for the destruction and removal of any building operation, and maintenance of public ways, parks, 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; to provide any other 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;

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

(30) Public transportation. To organize and operate or contract for such public transportation systems as are deemed beneficial;

(31) 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, 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 Georgia Public Service Commission;

(32) 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;

(33) Retirement. To provide and maintain a retirement plan for officers and employees of the city;

(34) Roadways and commuter rail. 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; to negotiate and execute leases over, through, under, or across any city property or the right of way of any street, road, alley, and walkway or portion thereof within the corporate limits of the city for the bridges, passageways, or any other purpose or use between buildings on opposite sides of the street and for other bridges, overpasses, and underpasses within the corporate limits of the city; to grant franchises and rights of way throughout the streets and roads and over the bridges and viaducts for the use of public utilities and for private use; and to require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands and to impose penalties for failure to do so;

(35) 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 those to whom sewers and sewerage systems are made available a sewer service fee, charge, or sewer tax for the availability or use of the sewers; to provide for the manner and method of collecting such service charges; and to impose and collect a sewer connection fee or fees to those connected with the system;

(36) 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;

(37) Special areas of public regulation. To regulate or prohibit junk dealers, pawn shops, the manufacture, sale, or transportation of any intoxicating liquors, and the use 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 traders, theatrical performances, exhibitions, and shows of any kind, by taxation or otherwise; and to license, tax, regulate, or prohibit professional fortunetelling, palmistry, adult bookstores, and massage parlors;

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

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

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

(41) Taxicabs; vehicles for hire. 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;

(42) Urban redevelopment. To organize and operate an urban redevelopment program; 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 in this charter; 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 3.

Said Act is further amended by striking Section 2.10 and inserting in its place a new Section 2.10 to read as follows:

"SECTION 2.10.

City council creation; composition; number.

The legislative authority of the government of this city, except as otherwise specifically provided in this charter, shall be vested in a city council to be composed of a mayor and six councilmembers."

SECTION 4.

Said Act is further amended by striking Section 2.11 and inserting in its place a new Section 2.11 to read as follows:

″SECTION 2.11.

Elections.

(a) The mayor and councilmembers shall be elected in the manner provided by general law and this charter. 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. The city council shall by ordinance prescribe such rules and regulations it deems appropriate to fulfill any options and duties under the 'Georgia Election Code.'

(b) There shall be a municipal general election biannually in the odd-numbered years on the Tuesday next following the first Monday in November or otherwise in accordance with Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code,' as now or hereafter amended.

(c) There shall be elected the mayor and three councilmembers at one election and at every alternating election thereafter. The remaining city council seats shall be filled at the election alternating with the first election so that a continuing body is created.

(d) The mayor and councilmembers who are in office on the effective date of this Act shall serve until the expiration of the term of office to which they were elected and until their successors are elected and qualified. The members of the city 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 be a United States citizen 18 years of age or older, who has been a resident of the city for 12 months prior to the date of the election of the mayor and councilmembers and each shall continue to reside therein during the member´s period of service and shall be registered and qualified to vote in municipal elections of this city.″

SECTION 5.

Said Act is further amended by striking Section 2.12 and inserting in its place a new Section 2.12 to read as follows:

″SECTION 2.12.

Vacancies.

(a) The office of mayor or councilmember shall become vacant upon the 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) A vacancy in the office of mayor or councilmember shall be filled for the remainder of the unexpired term, if any, by appointment if less than 12 months remain in the unexpired term, otherwise by an election in accordance with Titles 21 and 45 of the O.C.G.A., or other such laws as are or may hereafter be enacted or amended.″

SECTION 6.

Said Act is further amended by striking Section 2.15 and inserting in its place a new Section 2.15 to read as follows:

″SECTION 2.15.

Compensation and expenses.

The mayor and councilmembers shall receive compensation and expenses for their services as provided by ordinance.″

SECTION 7.

Said Act is further amended by striking Section 2.16 and 2.17 and inserting in their place a new Section 2.16 to read as follows:

″SECTION 2.16.

Conflicts of interest; removal of officers.

(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 as per the Ethics Ordinance.

(b) The mayor, councilmembers, or other appointed officers 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 applicable laws as are or may hereafter be enacted.

(c) Removal of an officer pursuant to subsection (a) of this section 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 officer is to be removed by the action of the city council, 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 city council shall provide by ordinance for the manner in which such hearing 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 city council to the Superior Court of Cherokee 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 Cherokee County following a hearing on a complaint seeking such removal brought by any resident of the City of Waleska.″

SECTION 8.

Said Act is further amended by striking Section 3.10 and inserting in its place a new Section 3.10 to read as follows:

″SECTION 3.10.

General power and authority.

Except as otherwise provided by law or this charter, the city council shall be vested with all the powers of government of this city.″

SECTION 9.

Said Act is further amended by striking Section 3.11 and inserting in its place a new Section 3.11 to read as follows:

″SECTION 3.11.

Organization.

(a) The city council shall hold an organizational meeting at the first regular meeting in January following an election. The meeting shall be called to order by the city clerk and the oath of office shall be administered to the newly elected members as follows:

'I do solemnly (swear) (affirm) that I will faithfully perform the duties of (mayor) (councilmember) 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 the United States of America.'

(b) By a majority vote, the city council shall elect a councilmember to serve as mayor pro tempore. The mayor pro tempore shall preside at all meetings of the city council and shall

assume the duties and powers of the mayor during any disability or absence of the mayor. Any such disability or absence shall be declared by a majority vote of the city council. The city council shall by majority vote elect a presiding officer from its number for any period in which the mayor pro tempore is disabled, absent, or acting as mayor. Such absence or disability shall be declared by majority vote of the council. The mayor pro tempore selected councilmember shall sign all contracts and ordinances in which the mayor has a disqualifying financial interest.″

SECTION 10.

Said Act is further amended by striking Section 3.16 and inserting in its place a new Section 3.16 to read as follows:

″SECTION 3.16.

Ordinances.

(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 'The Council of the City of Waleska hereby ordains...' and every ordinance shall so begin.

(b) An ordinance may be introduced by 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 city council 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 for in Section 3.18 of this charter. Upon introduction of any ordinance, the clerk shall, as soon as possible, distribute copies 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 city council may designate.

(c) The difference between an ordinance and a resolution is that a resolution deals with matters of a special or temporary character and an ordinance prescribes some permanent rule of government.″

SECTION 11.

Said Act is further amended by striking Section 3.22 and inserting in its place a new Section 3.22 to read as follows:

″SECTION 3.22.

Powers and duties of mayor.

The mayor shall:

(1) Preside at all meetings of the city council;

(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 the power to administer oaths and to take affidavits;

(4) Sign as a matter of course on behalf of the city all written and approved contracts, ordinances, and other instruments executed by the city which by law are required to be in writing;

(5) Vote on matters before the city council and be counted toward a quorum as any other councilmember;

(6) Prepare and submit to the city council a recommended annual operating budget and recommended capital budget; and

(7) Fulfill such other executive and administrative duties as the city council shall by ordinance establish.″

SECTION 12.

Said Act is further amended by striking Section 4.11 and inserting in its place a new Section 4.11 to read as follows:

″SECTION 4.11.

Boards.

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

(c) The city council 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 in this charter 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 clerk of the city an oath obligating that person to perform faithfully and impartially the duties of that person´s office, such oath shall be prescribed by ordinance and administered by the mayor.

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

(h) Except as otherwise provided by this charter or by law, each board, commission, or authority of the city shall elect one of its members as chairperson and one member as vice chairperson 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.″

SECTION 13.

Said Act is further amended by striking Section 4.12 and inserting in its place a new Section 4.12 to read as follows:

″SECTION 4.12.

City attorney.

The city council shall appoint a city attorney, together with such assistant city attorneys as may be authorized, who shall be a member of the State Bar of Georgia and shall have actively practiced law for at least one year. The city attorney shall serve at the pleasure of the city council. 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; shall attend the meetings of the city council as directed; shall advise the city council, mayor, and other officers and employees of the city concerning legal aspects of the city´s affairs; and shall perform such other duties as may be required by virtue of such person´s position as city attorney. The city council shall provide for the compensation of the city attorney together with such assistant city attorneys as may be authorized.″

SECTION 14.

Said Act is further amended by adding a new section immediately following Section 5.15, to be designated Section 5.16, to read as follows:

″SECTION 5.16.

Contracts.

In lieu of appointing a judge or judges of the municipal court, the mayor and councilmembers are authorized to contract with the governing authority of Cherokee County for the providing of municipal court functions and services as authorized by general law.″

SECTION 15.

Said Act is further amended by striking Section 6.14 and inserting in its place a new Section 6.14 to read as follows:

″SECTION 6.14.

Franchises.

(a) The city 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 companies, gas companies, transportation companies, and other similar organizations. The city council shall determine the duration, 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 35 years and no franchise shall be granted unless the city receives just and adequate compensation therefor. The city council shall provide for the registration of all franchises with the city clerk in a registration book kept by the city clerk. The city council 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 city council 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 16.

Said Act is further amended by striking Section 6.24 and inserting in its place a new Section 6.24 to read as follows:

″SECTION 6.24.

Operating budget.

On or before a date fixed by the city council but not later than 30 days prior to the beginning of each fiscal year, the mayor shall submit to the city council a proposed operating budget for the ensuing fiscal year. The budget shall be accompanied by a message from the mayor containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget, and other pertinent comments and information. The operating budget, the capital improvements budget, the budget message, and all supporting documents shall be filed in the office of the city clerk and shall be open to public inspection.″

SECTION 17.

Said Act is further amended by striking Section 6.25 and inserting in its place a new Section 6.25 to read as follows:

″SECTION 6.25

Adoption.

(a) The city council may amend the operating budget proposed by the mayor, 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. The total appropriations from any fund shall not exceed the estimated fund balance, reserves, and revenues.

(b) After the conducting of a budget hearing, the city council by ordinance shall adopt the final operating budget for the ensuing fiscal year not later than the day of the first meeting in August of each year. If the city council fails to adopt the budget by said date, the amounts appropriated for operation for the then current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly, until such time as the city council adopts a budget for the ensuing fiscal year. Adoption of the budget shall take the form of an appropriations ordinance 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 18.

Said Act is further amended by striking Section 6.28 and inserting in its place a new Section 6.28 to read as follows:

″SECTION 6.28

Capital improvements.

(a) On or before the date fixed by the city council, but not later than 30 days prior to the beginning of each fiscal year, the mayor shall submit to the city council a proposed capital improvements budget with a recommended capital budget containing the means of financing the improvements proposed for the ensuing fiscal year. The city council shall have power to accept, with or without amendments, or reject the proposed program and proposed means of financing. The city 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 budget, except to meet a public emergency as provided in Section 2.23 of this charter.

(b) After the conducting of a public hearing, the city council shall adopt by ordinance the final capital budget for the ensuing fiscal year not later than the day of the first meeting in August of each year. No appropriations provided for in a prior capital improvements budget shall lapse until the purpose for which the appropriations was made shall have been accomplished or abandoned; provided, however, the mayor may submit amendments to the capital improvements budget at any time during the fiscal year, accompanied by recommendations. Any such amendments to the capital improvements budget shall become effective only upon adoption by majority vote of the city council.″

SECTION 19.

Said Act is further amended by striking Section 6.32 and inserting in its place a new Section 6.32 to read as follows:

″SECTION 6.32

Sale of property.

(a) The city council 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.

(b) The city council may quitclaim any rights it may have in property not needed for public purposes upon report by the mayor 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 city council may authorize the sale of said cut off or separated parcels or tract of land to an abutting or adjoining property owner or owners where such sale and conveyance facilitates 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.″

SECTION 20.

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