

House Bill 1447

By: Representatives Persinger of the 119th, Gaines of the 120th, and Efstration of the 104th

A BILL TO BE ENTITLED

AN ACT

1 To provide a new charter for the City of Statham, Georgia; to repeal all prior charters for the
2 City of Statham, Georgia, and enactments, local legislation or home rule amendments
3 relating thereto made prior to the effective date of this enactment; to provide for definitions;
4 to provide for city limits; to provide for corporate powers; to provide that certain ordinances,
5 by-laws, rules and regulations in force in the City of Statham, shall remain in force until
6 amended or repealed by the mayor and city council; to provide for the registration of
7 electors; to provide for election of the mayor and councilmember; to provide for certain
8 restrictions on candidates and their supporters; to provide for penalties; to provide for the
9 mayor and city council and their powers and duties; to provide for the compensation and
10 expenses of the mayor and councilmember; to provide for a mayoral veto; to provide for a
11 city administrator; to provide for a vice-mayor; to provide for the filling of vacancies in the
12 office of mayor and councilmember; to provide for certain restrictions on councilmembers;
13 to provide for a city clerk; to provide for the organization of the city government; to provide
14 for city planning; to provide for a city attorney; to provide for certain officers and employees;
15 to provide for official bonds; to provide that certain political activity shall be prohibited; to
16 provide for penalties; to provide for the fiscal administration of said city and procedures
17 thereto; to provide for the assessment of property for taxation and the procedures connected
18 in addition; to provide for a tax levy; to provide for tax due dates and tax bills; to provide for

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19 the collection of delinquent taxes; to provide for special assessments; to provide for
20 disbursements by checks; to provide for an official depository; to provide for restrictions on
21 actions for damages against the city; to provide for a municipal court, jurisdiction, and judges
22 thereto; to provide for appeals from said court; to provide for prior ordinances and
23 enactments; to provide for severability; to provide for related matters; to repeal a specific
24 Act; to repeal conflicting laws; and for other purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

26 **SECTION 1.01.**

27 This Act shall constitute the whole charter of the City of Statham, Georgia, repealing and
28 replacing all previous charters and enactments, local legislation, and home rule amendments
29 thereto enacted prior to the effective date of this enactment. The City of Statham, Georgia,
30 in the County of Barrow, and the inhabitants thereof, are hereby constituted and declared a
31 body politic and corporate by the name and style of City of Statham, Georgia, and by that
32 name shall have perpetual succession, may sue and be sued, plead and be impleaded, in all
33 the courts of law and equity, and in all actions whatsoever, and may have and use a common
34 seal and change it at pleasure.

35 **SECTION 1.02.**

36 Definitions.

37 (a) As used in this charter the following words and terms shall have the following meanings:
38 (1) "Agency" shall mean any office, court, utility, board, commission, institution, or other
39 organization in charge of or administering any public function or municipal affair of the
40 city.

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

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

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

(5) "Councilmember" shall mean a person elected to the city council as provided in this charter.

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

(7) "Member of the council" shall mean the mayor and each councilmember.

(8) "Nonpartisan" shall mean without any designation of candidates and members or candidates of any state or national political party or organization.

(9) "Officer" shall mean and include the mayor, councilmember, member of boards and commissions, and any other persons classified as public officers by the laws or judicial decisions of this state. An "officer" in this definition shall fill an "office," and an "employee" shall fill a "position of employment".

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

(b)(1) The masculine shall include the feminine, the singular shall include the plural, and vice versa.

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

SECTION 1.03.

City limits.

The municipal limits of the city shall be the same as those existing immediately before this enactment and such boundaries as may be annexed or deannexed in the future as provided by law.

SECTION 1.04.

Corporate powers.

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

(1) To levy and to provide for the assessment, including special assessments, and collection of taxes on all property subject to taxation; and to levy and collect such other taxes as may be allowed now or in the future by law.

(2) 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.

(3) To appropriate and borrow money to provide for payment of the 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.

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

(5) To enter into contracts and agreements with other governments and entities and with private persons, firms and corporations.

(6) 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 city.

(7) To condemn property, inside or outside the city, for present or future use and for any corporate purpose deemed necessary by the governing authority, utilizing procedures enumerated in Titles 22, 32, and 36 of the O.C.G.A., or such other applicable laws as are or may hereafter be enacted.

(8) 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 associated with the use of said utilities by customers; and to provide for the withdrawal of service for refusal or failure to pay the same.

(9) 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.

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

(11) 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, parking facilities, and charitable, cultural, educational, recreational sport, conservation, curative, corrective, detention, penal and medical institutions, agencies and facilities, and any other public improvements, inside or outside the city; and to regulate the use of public improvements.

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

118 (13) To provide for and regulate the collection and disposal of garbage, rubbish and refuse;
119 and to prescribe the rates, fares, regulations, and standards and conditions of service
120 applicable to such solid waste services and to provide that charges may be imposed to
121 cover the costs of such services which, if unpaid, shall constitute a lien against any property
122 of persons served, which lien shall be second in priority only to liens for county and city
123 property taxes and shall be enforceable in the same manner and under the same remedies
124 as a lien for city property taxes.

125 (14) To define, regulate and prohibit any act, practice, conduct, or use of property,
126 detrimental, or likely to be detrimental, to the health, morals, safety, security, peace,
127 convenience, or general welfare of inhabitants of the city; and to provide for the
128 enforcement of such standards.

129 (15) To establish minimum standards for and to regulate building construction and repair
130 and all other structures; to adopt building, housing, plumbing, electrical, gas, and heating
131 and air conditioning codes; to regulate all housing and building trades; and to provide for
132 the enforcement of such standards.

133 (16) To regulate and license or prohibit the keeping or running at large of animals and
134 fowls and to provide for the impoundment of same in violation of any ordinance or lawful
135 order; to provide for their disposition, by sale, gift, or humane destruction of animals and
136 fowl when not redeemed as provided by ordinance; and to provide punishment for violation
137 of ordinances enacted pursuant to this paragraph.

138 (17) To regulate the emission of smoke or other exhaust which pollutes the air, and to
139 prevent the pollution of natural streams which flow within the corporate limits of the city.

140 (18) To lay out, open, extend, widen, narrow, establish or change the grade of, abandon
141 or close, construct, pave, curb, gutter adorn with shade trees or otherwise improve,
142 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 bridges, passageways, or any other purpose or use between buildings on opposite sides of the street and for other bridges, overpasses and underpasses for private use at such location, and to charge a rental therefore in such manner as may be provided by ordinance; to authorize and control the construction of bridges, overpasses, and underpasses 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 and for private use.

(19) To regulate the operation of motor vehicles and exercise control over all traffic, including traffic and speed control regulations and devices on any public way and parking upon or across and public way the streets, roads, alleys and walkways of the city.

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

(21) To organize and operate such public transportation systems as are deemed beneficial.

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

(23) To provide penalties for the violation of any ordinance, rule, regulation or order adopted pursuant to the authority of this charter and the laws of the State of Georgia as a misdemeanors; to provide that persons sentenced to jail sentences may satisfy such sentences in any public works or on the streets, roads, drains and squares in the city; to provide for the commitment of such persons to any jail, or to provide for the commitment of such persons to any county work camp or county jail by agreement with the appropriate county officials.

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

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

(26) To fix and establish fire limits and from time to time to extend, enlarge or restrict the same; to prescribe fire safety regulations consistent with general law, relating to both fire prevention and detection and to firefighting; and to prescribe penalties and punishment for violations thereof.

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

(28) 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.

(29) To regulate or prohibit junk dealers, pawn shops, the manufacture sale or transportation of intoxicating liquors, and the use and sale of firearms; to regulate the transportation, storage and use of combustible, explosive and flammable 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 taxing or otherwise; and to license, tax, regulate or prohibit professional fortune telling, palmistry, adult bookstores, and massage parlors.

(30) To establish procedures for determining and proclaiming that an emergency situation exists inside or outside the city limits, 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.

(31) 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 including, without limitation, to establish the terms, conditions, rules, and policies for employment of city employees including compensation and providing of employment benefits such as insurance or retirement.

(32) To exercise and enjoy all other powers, functions, rights, privileges and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the city and its inhabitants; to exercise all implied powers necessary to carry into execution all powers granted in the charter as fully and completely as if such powers were fully enumerated herein; 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 list 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 cities under the Constitution or applicable public act of the state.

SECTION 1.05.

Ordinances.

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

219 ARTICLE II.
220 MAYOR AND CITY COUNCIL

221 SECTION 2.01.
222 City council.

223 (a) The mayor and five councilmembers shall compose the city council, in which is vested
224 all corporate and legislative authority and other powers of the city, except as otherwise
225 provided in this charter. The city council shall be the final judge of the election and
226 qualifications of its members.

227 (b) The city council shall hold regular public meetings at a stated time and place, as provided
228 by ordinance. The city council shall exercise its powers only in public meetings. A majority
229 of the city council shall constitute a quorum. The city council may by ordinance adopt rules
230 and by-laws to govern the conduct of its business, including procedures and penalties for
231 compelling the attendance of absent members.

232 (c) The city council shall hold special meetings upon the call of such meeting by the mayor
233 or any two councilmembers. Notice of such special meetings shall be served on all other
234 members personally, or by telephone personally, at least 48 hours in advance of the meeting.
235 Such notice to councilmembers shall not be required if the mayor and all councilmembers
236 are present when the special meeting is called. Such notice of any special meeting may be
237 waived by a councilmember in writing before or after such a meeting and by attendance at
238 the meeting. Only the business stated in the call may be transacted at the special meeting.

SECTION 2.02.

Council terms and qualifications for office; term limits.

(a) The mayor and councilmembers shall serve for four-year terms or until their respective successors are elected and qualified. No person shall be eligible to serve as mayor or councilmember unless he or she has been a resident of the city for one year preceding the date of election of the mayor or councilmembers and must be a qualified voter in municipal elections for officers of this city. The mayor or councilmember shall continue to reside in the municipal limits during their period of service and to be registered and qualified to vote in municipal elections of this city.

(b) The mayor and city councilmembers shall be elected from the city at large for a term of four years commencing on the first day of January after each regular municipal election. Any mayor or city councilmember who has been elected for two consecutive four-year terms under the provisions of this charter shall not be eligible to hold the same elected office for the succeeding term. Any individual that has been elected to hold any combination of elected offices of the city for four consecutive, four-year terms shall be ineligible to qualify for any elected office for a period of four years thereafter. For purposes of calculating any municipal term limit, an elected official's first term of office shall be considered the term of office commencing after December 31, 2023.

SECTION 2.03.

Compensation.

The city council may determine by ordinance the annual salary of the mayor and councilmembers, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of the mayor and councilmember following the next regular election, provided that such regular election follows the adoption of such ordinance

263 by at least six months. The mayor and councilmembers shall be reimbursed for actual and
264 necessary expenses incurred in the performance of their duties of office.

265 **SECTION 2.04.**

266 Vacancy; filling of vacancies; removal of officers.

267 (a) The office of mayor or councilmember shall become vacant upon the incumbent's death,
268 resignation, forfeiture of office, failing or ceasing to reside in the city, or if such officeholder
269 has been continuously disabled for a period of six months so as to prevent him or her from
270 discharging the duties of his or her office, or removal from office in any manner authorized
271 by this charter or the general laws of the State of Georgia. A vacancy in the office of mayor
272 or councilmember shall be filled for the remainder of the unexpired term, if any, by
273 appointment if less than six months remain in the unexpired term, otherwise by special
274 election as provided for in Titles 21 and 45 of the O.C.G.A., or such other laws as are or may
275 hereafter be enacted.

276 (b)(1) The mayor or councilmembers may be removed from office for any one or more of
277 the following causes:

278 (A) Conviction of a crime involving moral turpitude;

279 (B) Failure at any time to possess any qualifications of office as provided by this charter
280 or by law;

281 (C) Knowingly violating any express prohibition of this charter;

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

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

285 (2) Removal of any officer pursuant to this subsection shall be heard first following
286 referral to an investigative hearing conducted by the municipal court judge. The referral
287 may be made by the mayor or a majority vote of the city council. The notice of the

investigative hearing shall contain in writing the nature of the charges and the specific sections or subsections of the charter or code which the mayor or councilmember is alleged to have violated. Upon referral, the city solicitor shall present the case on behalf of the referring party. The mayor or councilmember subject to removal shall be entitled to be represented and to present evidence and arguments to the municipal court judge in his or her own defense. The hearing shall be conducted according to the rules of evidence and procedure, including the right of cross-examination, order of proof, and right of rebuttal applicable in the municipal court. The city council shall have the burden of proving its case by clear and convincing evidence of the grounds for removal. The municipal court judge shall make a recommendation to the city council regarding any removal or disciplinary action for the mayor or councilmember.

(3) At their next regularly scheduled meeting, the city council shall consider the recommendation of the municipal court judge and shall either accept the recommendations or make any amendment, revisions or modification to the municipal court judge's recommendation. Any action to remove an officer, mayor, or councilmember from his or her office shall require majority vote of the remaining members of the council. The officer whose removal or discipline is being considered shall not vote on his or her own removal or discipline.

(4) Any elected officer sought to be removed from office under this subsection shall have the right to appeal the decision of the city council to the Superior Court of Barrow County. Such appeal shall be governed by the same rules as govern appeals to the superior court from lower courts.

310 **SECTION 2.05.**

311 Holding other office; voting when personally interested.

312 Except as authorized by law, the mayor or any councilmember shall not hold any other city
313 office or other city employment during the term for which he or she was elected. Neither the
314 mayor nor any councilmember shall vote upon, sign or veto any ordinance, resolution,
315 contract or other matter in which he or she shall receive a direct personal financial gain.

316 **SECTION 2.06.**

317 Powers and duties of mayor; veto; appointment of city administrator.

318 (a) The mayor shall:

- 319 (1) Preside at meetings of the city council;
320 (2) Have a vote only in case of a tie;
321 (3) Be the ceremonial head of the city;
322 (4) Sign ordinances and resolutions on their final passage unless vetoed as provided in
323 subsection (b) of this section;
324 (5) Sign deeds, bonds and contracts when authorized by the city council to do so;
325 (6) Be the officer to accept process against the city; and
326 (7) Perform other duties imposed by this charter and ordinances not inconsistent with this
327 charter.

328 (b) Within 96 hours after the adjournment of any city council meeting, the city clerk shall
329 present to the mayor the draft record of proceedings of the meeting together with all
330 ordinances and resolutions adopted at the meeting. Within seven days of receipt of an
331 ordinance or resolution, the mayor shall return it to the city clerk with his or her signature for
332 approval or with his or her veto. If an ordinance or resolution is vetoed, the mayor shall
333 attach a written statement explaining the reasons for his or her veto. Ordinances or

resolutions vetoed by the mayor shall be considered at the next regular meeting of the city council, and the city council may pass the ordinance over the veto by the affirmative vote of four of its members. The effective date of an ordinance passed over the mayor's veto shall not be less than 15 days after the date of final passage. The mayor's veto power shall extend to disapproving or reducing individual appropriation items in the budget or any ordinance or resolution, except appropriations for auditing or investigating any part of the executive branch. The mayor shall not have the power to veto any emergency ordinance.

(c) The mayor shall appoint a city administrator who shall be approved by the city council. The city administrator may only be removed upon recommendation of the mayor by a majority vote of the city council. Said city administrator shall be the principal managerial aide to the mayor and shall perform such duties as may be assigned by the mayor.

SECTION 2.07.

Vice-mayor.

The city council at the first regular meeting, after the newly elected councilmembers have taken office following each regular election, shall elect from its membership a vice-mayor for a term of two years. In the event that no decision is reached at such first regular meeting, the councilmember who received the highest number of votes when he or she was last elected shall become vice-mayor. The vice-mayor shall perform the duties of the mayor during his or her absence or inability to act and shall, in the event of a vacancy in the office of mayor, fill out any unexpired term in the office of mayor until said vacancy is filled pursuant to Section 2.04 of this charter, in which case a new vice-mayor shall be elected by majority vote of the city council.

SECTION 2.08.**Elections.**

All primaries and elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., as now effective, or hereafter amended. There shall be a municipal general election biennially in the odd years as provided by this charter and state law on the Tuesday next following the first Monday in November. It is the intent of this section of the charter that the elected officials of the City of Statham serve staggered terms with the mayor and two councilmembers to be elected in 2027 and every four years thereafter and with three councilmembers to be elected in 2025 and every four years thereafter. Those members of the council serving on the effective date of this charter shall serve out the terms to which they were elected. Political parties shall not conduct primaries for city offices and all names of candidates for city offices shall be listed without party designations. The person receiving a plurality of the votes cast for any city office shall be elected.

SECTION 2.09.**Restrictions on councilmembers.**

The city council shall act in all matters as a body, and no member shall seek individually to influence the official acts of the mayor or any other officer or employee of the city, or to direct or request the appointment of any person to, or his or her removal from, any office or position of employment, or to interfere in any way with the performance of duties by the mayor or any other officer or employee. Councilmembers shall deal with the various agencies, officers and employees of the city, except boards of commissions authorized by this charter, solely through the mayor, and shall not give orders to any subordinates of the mayor, either publicly or privately. Nothing herein contained shall prevent the city council

379 from conducting such inquiries into the operation of the city government and the conduct of
380 the city's affairs as it may deem necessary

381 **SECTION 2.10.**

382 City clerk.

383 The mayor shall appoint a city clerk who shall be approved by a majority vote of the city
384 council. The city clerk shall be responsible for keeping and preserving the city seal and all
385 records of the city council; attending meetings of the city council and the official minutes of
386 its proceedings, including the names of members present and absent, the vote of each
387 member on each question, each motion considered, and the title of each resolution or
388 ordinance considered; preparing, the certifying copies of official records in his or her office,
389 for which fees may be prescribed by ordinances; and performing such other duties as may
390 be required by the city council or mayor. The city clerk may only be removed upon
391 recommendation of the mayor by a vote of the city council.

392 **SECTION 2.11.**

393 City legislation.

394 Any action of the city council having a regulatory or penal effect, relating to revenue or the
395 expenditure of money or required to be done by ordinance under this charter, shall be done
396 only by ordinance. Each motion, resolution and ordinance shall be in written form before
397 being introduced. The affirmative vote of at least three members of the city council shall be
398 required to pass any motion, resolution or ordinance, including two readings in the case of
399 an ordinance. Each ordinance, before being adopted, shall be read at two meetings not less
400 than one week apart, and shall take effect ten days after its adoption, except that, where an
401 emergency exists and the public safety and welfare require it, an ordinance containing a full

402 statement of the facts and reasons for the emergency may be made effective upon its
403 adoption if approved by at least four members of the city council. No ordinance relating to
404 a franchise, exclusive contract, or other special privilege shall be passed as an emergency
405 ordinance. Amendments of ordinances and resolutions or parts thereof shall be accomplished
406 only by setting forth the complete section, sections, subsections in their amended form. The
407 original copies of all ordinances, resolutions and motion shall be filed and preserved by the
408 city clerk. The city clerk shall maintain a compilation of all ordinances passed, and this
409 compilation shall be known and cited officially as "The Code of the City of Statham,
410 Georgia."

411 **SECTION 2.12.**

412 Rules and regulations.

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

419 **SECTION 2.13.**

420 Investigations.

421 The city council by simple majority vote may make investigations into the affairs of the city
422 and the conduct of any department, office or agency thereof, and for this purpose may
423 subpoena witnesses, administer oaths, take testimony, and require the production of

424 evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of
425 these powers by the city council shall be punished as provided by ordinance.

426 ARTICLE III.
427 ORGANIZATION AND PERSONNEL

428 SECTION 3.01.
429 Organization.

430 The city government shall be organized into a Department of Government Administration,
431 Police Department, Department of Public Works and Planning Department as provided in
432 Section 3.02, unless and until otherwise provided by ordinance. All department heads shall
433 be nominated by the mayor and approved by the city council and shall be subject to removal
434 only by majority vote of the city council. The city council by such ordinances may establish,
435 abolish, merge, or consolidate offices, positions or employment, departments, and agencies
436 of the city, may provide that the same person shall fill any number of offices and positions
437 of employment, and may transfer or change the functions and duties of offices, positions of
438 employment, departments, and agencies of the city, subject to the following exceptions: all
439 officers and employees of the city, except as otherwise specifically provided in this charter,
440 shall be appointed and removed by and shall be under the direction and control of the mayor.

441 SECTION 3.02.
442 Planning.

443 (a) There shall be a planning department headed by a director who shall be appointed by the
444 mayor and confirmed by the majority of the city council. The planning director shall have
445 the following responsibilities to:

- 446 (1) Advise the mayor and city council on any matter affecting the physical development
447 of the city;
- 448 (2) Formulate and recommend to the mayor and city council a comprehensive plan and
449 modifications of the comprehensive plan; and
- 450 (3) Review and make recommendations regarding proposed city council action
451 implementing said comprehensive plan pursuant to subsection (c) of this section.
- 452 (b)(1) The city council shall adopt, and may from time to time modify, a comprehensive
453 plan setting forth in graphic and textual form policies to govern the future physical
454 development of the city. Such plan may cover the entire city and all of its functions and
455 services or may consist of a combination of plans governing specific functions and services
456 or specific geographic areas which together cover the entire city and all of its functions and
457 services.
- 458 (2) Upon receipt from the mayor of a proposed comprehensive plan or proposed
459 modification of the existing plan, the city council shall hold a public hearing on the
460 proposed comprehensive plan or modification and shall adopt it by resolution with or
461 without amendment. The comprehensive plan shall serve as a nonbinding guide to all
462 future city council action concerning land use and development regulations, urban renewal
463 programs and expenditures for capital improvements.
- 464 (c) The city council may by ordinance adopt land use and development regulations
465 including, but not limited to, an official map and zoning and subdivision regulations.
- 466 (d) The city council may by ordinance provide for redevelopment, rehabilitation,
467 conservation and renewal programs for:
- 468 (1) The alleviation or prevention of slums, obsolescence, blight or other conditions of
469 deterioration; and
- 470 (2) The achievement of the most appropriate use of land.

SECTION 3.03.

Administrative duties of mayor.

The mayor shall:

(1) Be the executive head of the city government, responsible for the efficient and orderly administration of the city's affairs.

(2) Be responsible for the enforcement of laws, rules and regulations, ordinances and franchises in the city, and the city attorney shall take such legal actions as the mayor may direct for such purposes.

(3) Have the authority with the approval of city council to appoint and remove department heads; provided, however, that if the mayor fails to appoint a department head within 120 days of vacancy, the city council may vote to appoint that department head;

(4) Have authority to appoint, promote, demote, transfer, suspend and remove all officers and employees, except department heads, and to direct and control their work, except as otherwise provided in the charter.

(5) Submit to the city council annual budgets, reports, and such other information as the city council may require. The mayor shall have authority to make allotments of funds within the limits of appropriations and no expenditure shall be made without the mayor's approval.

(6) If no other employee is designated as purchasing agent, to act as purchasing agent for the city.

(7) He or she may conduct inquiries and investigations into the conduct of the city's affairs and shall have such other powers and duties as may be provided by ordinances not inconsistent with this charter.

494 **SECTION 3.04.**

495 City attorney.

496 The mayor shall appoint a city attorney with the approval of the city council, together with
497 such assistant city attorneys as may be authorized. The city attorney shall be responsible for
498 representing and defending the city in all litigation in which the city is a part and shall advise
499 the city council, mayor and other officers and employees of the city concerning legal aspects
500 of the city's affairs.

501 **SECTION 3.05.**

502 Other officers and employees.

503 After receiving the written recommendations of the mayor, the city council may establish by
504 ordinance offices and positions of employment and may abolish, combine or modify them
505 in accordance with such recommendations. The powers and duties of such offices and
506 positions of employment may be defined by ordinance, and if not defined by ordinance shall
507 be defined in formal rules and regulations issued by the mayor; in any event the mayor may
508 require officers and employees of the city, except those appointed by and accountable to the
509 city council, to perform such additional duties as may be considered necessary by the mayor
510 for the proper and efficient conduct of the city's affairs. Public utilities owned or operated
511 by the city may be under the supervision of the mayor and employees appointed by the
512 mayor or may be under boards or commissions appointed by and answerable to the city
513 council, as provided by ordinance. The salaries of all employees of the city shall be fixed
514 by ordinance under a pay plan applying uniformly to all employees having similar
515 responsibilities and doing like work.

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SECTION 3.06.

517

Appointment, suspension and removal of employees.

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All employees of the city, except as otherwise provided in this charter, shall be appointed, promoted, demoted, transferred, suspended and removed by the mayor. During a suspension an employee's salary may be reduced or eliminated, as determined by the mayor. Before suspending for more than 30 days or removing an employee, the mayor shall serve the employee with a written notice of intention to suspend or remove him or her containing a clear statement of the grounds for such proposed action and notification that the employee may appeal to the city council by filing, within ten days, with the city clerk written notice of his or her intention to do so. The decisions of the city council in cases of such appeals by employees shall be final. The mayor shall provide in writing to the city council, within ten days, any appointment, promotion, demotion, transfer, suspension or removal of any employee along with reasons for doing so.

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SECTION 3.07.

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Oath of office.

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

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

SECTION 3.08.**Political activity prohibited.**

No officer or employee of the city other than the mayor and councilmembers shall continue in the employment of the city after becoming a candidate for nomination or election to any public office. No person shall directly or indirectly give, render, or pay any money, service or other valuable consideration to any person for or on account of or in connection with any test, appointment, proposed appointment, promotion, or proposed promotion to any office or position of the city government. No person shall orally, by letter, or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or political purpose from any officer or employee of the city. An officer or employee of the city, other than the mayor and councilmember, shall not make any contribution to the campaign funds of any candidate in any city election, and shall not take part in the management, affairs or political campaign of any city election, other than in the exercise of his or her rights as a citizen to express his or her opinions and to cast his or her vote. Political campaigning shall not be allowed during city council meetings, meetings of any committee or employees of the city or any other meetings involving official city business. Candidates for office, including those currently serving as mayor or city councilmember, may rent city-owned or controlled facilities for political campaigning purposes subject to the rules and regulations for renting of city facilities for the general public. Nothing contained herein shall prevent or prohibit candidates for office from conducting political campaigning or related activities during special events, festivals, or other community events, whether conducted or sponsored by the city.

559 ARTICLE IV.
560 FISCAL ADMINISTRATION

561 SECTION 4.01.
562 Fiscal year.

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

566 SECTION 4.02.
567 Mayor to submit annual budget.

568 On or before a date fixed by the city council but not later than 45 days prior to the beginning
569 of each fiscal year, the mayor shall submit to the city council a proposed budget for the next
570 fiscal year, showing separately for the general fund, each utility, and each other fund the
571 following:

- 572 (1) Revenue and expenditures during the preceding fiscal year;
573 (2) Appropriations and estimated revenue and expenditures for the current fiscal year;
574 (3) Estimated revenue and recommended expenditures for the next fiscal year;
575 (4) A comparative statement of the assets, liabilities, reserves, and surplus at the end of the
576 preceding year and estimated assets, liabilities, reserves, and surplus at the end of the
577 current fiscal year; and
578 (5) Such other information and data, such as work programs and unit costs, in justification
579 of recommended expenditures, as may be considered necessary by the mayor or requested
580 by the city council. The mayor may recommend and estimate additional revenue measures,
581 providing such estimates are separated clearly from normal revenue estimates. The budget

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

SECTION 4.03.

Public hearing.

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

SECTION 4.04.

Action by council on budget.

After the public hearing and before the beginning of the next fiscal year the city council shall adopt an appropriation ordinance, based on the mayor's budget with such modifications as the city council considers necessary or desirable. The city council shall not make any appropriations in excess of estimated revenue, except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the city; providing the city council unanimously agrees there is such an emergency. If emergency conditions prevent the adoption of an appropriation ordinance before the beginning of the new fiscal year, the

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

619 **SECTION 4.05.**

620 Allotments.

621 No contracts or purchases, except those made by the city council, may be made in excess of
622 the amount permitted by such purchasing policy established by the city council. In no event
623 may contracts or purchases be made in excess of appropriations. Any expenditures except
624 for salaries and wages may be reduced or eliminated through such allotment control.

625

SECTION 4.06.

626

Contracts and purchasing.

627 The city council may by ordinance establish contracting and purchasing procedures;
628 provided, however, that no contract with the city shall be binding on the city unless:

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(1) It is in writing;

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(2) It is drawn by or submitted and reviewed by the city attorney, and as a matter of
631 course, is signed by the city attorney to indicate approval of the form;

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(3) It is reviewed as to substance by the mayor, or the mayor's designee, and city council
633 and the director of the department most affected by the contract, signed by such director
634 to indicate approval as to substance, and signed by the mayor;

635

(4) The expenditure has been approved in accordance with the city's financial and
636 purchasing policies; and

637

(5) It is attested to by the city clerk.

638

SECTION 4.07.

639

Sale of city property.

640 The mayor may sell any city property which is obsolete, surplus or unusable if the acquisition
641 cost of such property did not exceed \$500.00, without taking bids, but sealed bids shall be
642 taken or a public auction shall be held for any sale of property having an acquisition cost of
643 more than \$500.00; provided that any sale of real estate shall be subject to approval by the
644 city council. Notwithstanding the foregoing, the sale of any city property shall be made in
645 conformance with Georgia law.

646 **SECTION 4.08.**

647 Annual audit.

648 The city council shall employ a certified public accountant to make an annual audit of all
649 financial books and records of the city. The accountant shall file his or her report with the
650 city council, at a time agreed to between him or her and the city council, and shall prepare
651 a summary of the report which shall be posted in a public place designated by the city
652 council.

653 **SECTION 4.09.**

654 Property tax.

655 The city council may assess, levy and collect an ad valorem tax on all real and personal
656 property within the corporate limits of the city that is subject to such taxation by the state and
657 county. This tax is for the purpose of raising revenues to defray the costs of operating the
658 city government, of providing governmental services, for the repayment of principal and
659 interest on general obligations, and for any other public purpose as determined by the city
660 council in its discretion.

661 **SECTION 4.10.**

662 Millage rate; due dates; payment methods.

663 The city council, by ordinance, shall establish a millage rate for the property tax, a due date,
664 and the time period within which these taxes must be paid. The city council, by ordinance,
665 may provide for the payment of these taxes by installments or in one lump sum, as well as
666 authorize the voluntary payment of taxes prior to the time when due.

667

SECTION 4.11.

668

Occupation and business taxes.

669 The city council, by ordinance, shall have the power to levy such occupation or business
670 taxes as are not denied by law. Such taxes may be levied on both individuals and
671 corporations who transact business in this city or who practice or offer to practice any
672 profession or calling within the city to the extent such persons have a constitutionally
673 sufficient nexus to this city to be so taxed. The city council may classify businesses,
674 occupations, professions or callings for the purpose of such taxation in any way which may
675 be lawful and may compel the payment of such taxes as provided in Section 4.17 of this
676 charter.

677

SECTION 4.12.

678

Licenses; permits; fees.

679 The city council by ordinance shall have the power to require any individual or corporation
680 who transacts business in the city or who practices or offers to practice any profession or
681 calling within the city to obtain a license or permit for such activity from the city and to pay
682 a reasonable fee for such license or permit where such activities are not now regulated by
683 general law in such a way as to preclude city regulations. Such fees may reflect the total cost
684 to the city of regulating the activity and, if unpaid, shall be collected as provided by
685 ordinance. The city council by ordinance may establish reasonable requirements for
686 obtaining or keeping such licenses as the public health, safety and welfare necessitate.

SECTION 4.13.**Franchises.**

The city council shall have the power to grant franchises for the use of the city's public ways for the purposes of railroads, street railways, telephone companies, electric companies, cable television, 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 unless the city receives just and adequate compensation therefore. The city council shall provide for the registration of all franchises with the city clerk. The city council may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

SECTION 4.14.**Service charges.**

The city council by ordinance shall have the power to assess and collect fees, charges, and tolls for sewers, sanitary and health services, or any other services provided or made available inside and outside the city limits of the city. If unpaid, such charges shall be collected as provided in Section 4.17 of this charter.

SECTION 4.15.**Special assessments.**

The city council, by ordinance, shall have the power to assess and collect 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

709 owners under such terms and conditions as are reasonable. If unpaid, such charges shall be
710 collected as provided in Section 4.17 of this charter.

711 **SECTION 4.16.**

712 Construction; other taxes.

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

716 **SECTION 4.17.**

717 Collection of delinquent taxes and fees.

718 The city council, by ordinance, may provide generally for the collection of delinquent taxes,
719 fees, or other revenue due the city under Sections 4.09 through 4.16 of this charter by
720 whatever reasonable means as are not precluded by law. This shall include providing for the
721 dates when the taxes or fees are due; late penalties or interest; issuance and execution of writs
722 of fieri facias; creation and priority of liens; making delinquent taxes and fees personal debts
723 of the persons required to pay the taxes or fees imposed; revoking city licenses for failure to
724 pay any city taxes or fees; and providing for the assignment or transfer of tax executions.

725 **SECTION 4.18.**

726 General obligation bonds.

727 The city council shall have the power to issue bonds for the purpose of raising revenue to
728 carry out any project, program or venture authorized under this charter or the laws of the

729 state. Such bonding authority shall be exercised in accordance with the laws governing bond
730 issuance by municipalities in effect at the time said issue is undertaken.

731 **SECTION 4.19.**

732 Revenue bonds.

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

736 **SECTION 4.20.**

737 Short-term loans.

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

740 **SECTION 4.21.**

741 Disbursements by checks.

742 All city checks and drafts shall be signed by two officers including, the mayor, the city
743 administrator or the city clerk. In the absence or unavailability of the mayor, the vice-mayor
744 may sign in the place of the mayor.

745 **SECTION 4.22.**

746 Official depository.

747 The city council shall designate an official depository or depositories for deposit and
748 safekeeping of the funds of the city and may require such collateral security as it deems
749 necessary.

750 **ARTICLE V.**

751 **MUNICIPAL COURT**

752 **SECTION 5.01.**

753 Creation; name.

754 There shall be a court to be known as the Municipal Court of the City of Statham.

755 **SECTION 5.02.**

756 Municipal judge; associate judge.

757 The municipal court shall be presided over by a municipal judge or such part-time, full-time,
758 or stand-by judges as shall be provided by ordinance. To the maximum extent permitted by
759 general law, the method of selection and terms of such judges shall be provided by
760 ordinance. No person shall be qualified or eligible to serve as a judge of the municipal court
761 unless he or she shall have attained the 21 years of age, shall be a member of the State Bar
762 of Georgia, and shall possess all qualifications required by law. All judges shall be
763 appointed by mayor and approved by the city council. Before assuming office, each judge
764 shall take an oath that he or she will honestly and faithfully discharge the duties of his or her
765 office to the best of his or her ability and without fear, favor or partiality.

SECTION 5.03.

Convening.

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

SECTION 5.04.

Jurisdiction; powers.

(a) The municipal court shall 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, by fine, as allowed by law, or 15 of imprisonment and labor on the public works of the city, or by both fine and imprisonment.

(c) The municipal court may fix punishments for offenses within its jurisdiction by fine in an amount not to exceed \$1,000.00 or by imprisonment for up to 12 months in jail or any combination thereof or by labor on the public works of the city for one year, or alternative sentencing as allowed by law.

(d) The municipal court shall have authority to establish a schedule of fees to defray the cost of operation and shall be entitled to reimbursement of the cost of meals, transportation, and caretaking of prisoners bound over to state or 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 his or her appearance and shall fail to appear at the time fixed for trial, his or her bond shall be forfeited by the judge presiding at such time, and an execution issued thereon by serving the defendant and his or her sureties with a rule nisi, at least two days before a hearing on the rule. In the event that

790 cash or property is accepted in lieu of bond for security for the appearance of a defendant at
791 trial, and if such defendant fails to appear at the time and place fixed for trial, the cash so
792 deposited shall be on order of the judge declared forfeited to the city, or the property so
793 deposited shall have a lien against it for the value forfeited which lien shall be enforceable
794 in the same manner and to the same extent as a lien for city property taxes.

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

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

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

805 (i) The municipal court is specifically vested with all the jurisdiction and powers throughout
806 the geographic area of this city granted by law to municipal courts and particularly by such
807 laws as authorize the abatement of nuisances and prosecution of traffic violations.

808 **SECTION 5.05.**

809 **Appeal.**

810 Any person aggrieved by a decision of the municipal court shall have the right to appeal,
811 certiorari, or review as provided by law to the Superior Court of Barrow County.

812 **SECTION 5.06.**

813 Rules for court.

814 With the approval of the city council, the municipal court judge shall have full power and
815 authority to make reasonable rules and regulations necessary and proper to secure the
816 efficient and successful administration of the municipal court; provided, however, that the
817 city council may adopt in part or in toto the rules and regulations applicable to the municipal
818 court. The rules and regulations made or adopted shall be filed with the city clerk, and shall
819 be available for public inspection, and, upon request, a copy shall be furnished to all
820 defendants in municipal court proceedings.

821 **ARTICLE VI.**

822 **MISCELLANEOUS**

823 **SECTION 6.01.**

824 General laws may be used.

825 The city council in its discretion may elect to use the provisions of any general laws of the
826 state in addition to or instead of the provisions of this charter.

827 **SECTION 6.02.**

828 Prior ordinances and enactments.

829 All ordinances, resolutions, rules and regulations now in force in the city consistent with this
830 charter are hereby declared valid and of full effect and force until amended or repealed by
831 the city council.

832 **SECTION 6.03.**

833 Severability.

834 If any article, section, subsection, paragraph, sentence, or part, of this charter shall be held
835 to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or
836 impair other parts of this charter unless it clearly appears that such other parts are wholly and
837 necessarily dependent upon the part or parts held to be invalid or unconstitutional, it being
838 the legislative intent in enacting this charter that each article, section, subsection, paragraph,
839 sentence, or part thereof, be enacted separately and independently of each other.

840 **SECTION 6.04.**

841 Specific repealer.

842 An Act to provide a new charter for the City of Statham, Georgia, approved April 21, 1967
843 (Ga. L. 1967, p. 3326), is hereby repealed in its entirety; and all amendatory acts thereto are
844 likewise repealed in their entirety.

845 **SECTION 6.05.**

846 General repealer.

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