

## PART I CHARTER\*

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# CITY OF ELBERTON CHARTER

## ARTICLE I. IN GENERAL

### **Sec. 1. Reincorporation as city.**

The name, "Town of Elberton" in Elbert County is changed to "City of Elberton", and all contracts heretofore entered into by the Town of Elberton shall be good and valid for and against the City of Elberton to the same extent that they would have been for or against the Town of Elberton had this Charter not been granted, and all rights and liabilities of the Town of Elberton and all action and the rights thereof shall accrue and survive to and against the City of Elberton. All property and the right thereof now held and owned by the Town of Elberton shall be and become the right and property of the city of Elberton. All laws and ordinances of the Town of Elberton not in conflict with this Charter shall be valid and enforceable as laws and ordinances of the City of Elberton.  
(1896 Ga. Laws (Act No. 45), page 148).

### **Sec. 2. Incorporation; general powers.**

The City of Elberton, in the County of Elbert, be, and the same is, hereby incorporated under the name and style of "The City of Elberton", and by that name may have perpetual succession, may have and use a common seal, may sue and be sued, may plead and be impleaded in any court of law or equity in the state, may purchase, have, hold, receive, enjoy, and retain to themselves and their successors in office for the use of the city, any estate or estates, real or personal, of whatever kind or nature, within or without the corporate limits, thereof, and may sell or otherwise dispose of the same for the benefit of said city as they may see fit and proper, the Mayor by direction of the City Council making deed to any property sold or disposed of by said city.  
(1896 Ga. Laws (Act No. 45), page 148)

### **Sec. 3. Central point of city.**

The central point of said city shall be the central point of the present public square measured from a stone now marking the central point of said public square.  
(1896 Ga. Laws (Act. No. 45), page 148).

### **Sec. 4. City Limits – Original.**

The territorial limits of the city shall be one mile in every direction from the central point.  
(1896 GA. Laws (Act No. 45), page 148).

### **Sec. 5. Same – Addition of Ackerman-Hills Subdivision number 2.**

The corporate limits shall also include within the city limits all of that portion of the Ackerman-Hills Subdivision number 2, designated as lot numbers 48, 49, 50, 51, 52, and 53 as shown by a plat of survey of said subdivision recorded in plat book 3, page 268 in the office of the Clerk of the Superior Court of Elbert County, Georgia.  
(1896 Ga. Laws (Act No. 45), page 148; 1961 Ga. Laws (Act No. 366, page 3005)

### **Sec. 6. – Same – Addition of remaining portion of Rhodes Drive Subdivision**

The corporate limits shall also include all that part of Rhodes Drive, subdivision not now included within said corporate limits, to wit, all of lots 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and

parts of lots 18, 31, and 32, all as shown by plat of same prepared by C. M. Rucker, C. E., dated September, 1960 and recorded in plat book 4, page 79 of Elbert County records. (1896 Ga. Laws (Act No. 45), page 148; 1961 Ga. Laws (Act No. 460), page 3249)

## **ARTICLE II. MAYOR AND COUNCIL**

### **DIVISION 1. IN GENERAL**

#### **Sec. 7. Form of government; biennial election; terms of office; oath required; salaries.**

The Municipal government of said city shall consist of a Mayor and five (5) Councilmen, all of whom shall be elected biennially on the days fixed by ordinance, and hold their office(s) for four (4) years and until their successors are elected and qualified; each of whom shall take an appropriate oath provided by ordinance, before entering upon the duties of their respective office, which oath may be administered by an(y) person authorized to administer oaths under the laws of this state. The Mayor shall be paid a salary of six thousand dollars (\$6,000.00) per year, and the members of Council shall be paid a salary of three thousand dollars (\$3,000.00) per year; that the Mayor and Council shall be paid fifty dollars (\$50.00) for each called meeting. The Mayor and Council shall receive an additional one hundred dollars (\$100.00) per month if he/she has completed one hundred twenty (20) hours of certification from the Georgia Municipal Association (GMA). (1896 Ga. Laws (Act No. 45), page 148; 1953 Ga. Laws (Act No. 819), page 2987; Ord. No. 790, Section 1, 8-6-79; Ord. No. 939, Section 1, 8-7-89; Ord. No. 1070, Section 1, 9-11-95; Ord. No. 1079, Section 1, 12-4-95; Ord. No. 2112, Section 1, adopted 4-7-03, eff. 1-5-04).

#### **Sec. 8. Providing for elections; registration of voters.**

The legislative body of said city shall provide by ordinance the manner of holding elections as well as to fix the qualifications of voters, and the eligibility of citizens to hold office in said city; provided, such ordinance be not inconsistent with the constitution and laws of this state and the United States.

The city through its legislative authority shall provide a system of registration in which the clerk shall keep a book wherein all voters may register under such rules and in such manner as may be determined by said city authority, which book shall remain open for registration of voters for a period of at least three (3) consecutive months during each year and which book shall be closed at least thirty (30) days prior to any election, whether general, special or primary, to be held under such registration, and said book shall remain closed until the time designated by the legislative authority of said city for the opening of the same for registration of voters in the next succeeding year, and no voter who has not registered prior to the closing of said registration book shall be allowed to vote in such election for which said registration book was closed; provided, however, that in the event of the holding of any election for said city within the time during which said registration of voters shall be open or within thirty (30) days after the closing of the same, then the list of registered voters of said city qualified to vote in such election shall be the one used in the next preceding general election for Councilmen of said city. Within three (3) days after registration closes, the clerk shall furnish to each Councilman a certified list of all registered voters. (1896 Ga. Laws (Act. No. 45), page 148; 1922 Ga. Laws (Act No. 321); page 819)

**Editor's Note** – The field of regulation of municipal elections has been almost entirely preempted by the state by enactment of the Municipal Election Code, O.C.G.A., Section 21-3-1 et seq. making most of this section of the Charter ineffective and only of historical importance.

**Sec. 9. Election wards; election of Councilmen; filling of vacancies; residency requirement.**

- (a) For the purpose of electing councilmembers, the City of Elberton shall be divided into five (5) wards. Those wards shall be and correspond to those five numbered districts described in and attached to and made a part of this Act and further identified as "Plan: Elberton-prop1-2012 Plan Type: Local Administrator: Elberton User: Gina".
- (b) For the purposes of such plan:
  - (1) The term "VDT" shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2010 for the State of Georgia. The separate numeric designations in a district description which are underneath a VTD heading shall mean and describe individual Blocks within a VTD heading shall mean and describe individual Blocks within a VTD as provided in the report of the Bureau of the Census for the United States decennial census of 2010 for the State of Georgia; and
  - (2) Except as otherwise provided in the description of any district, whenever the description of any district refers to a named city, it shall mean the geographical boundaries of that city as shown on the census maps for the United States decennial census of 2010 for the State of Georgia.
- (c) Any part of the City of Elberton which is not included in any district described in subsection (a) of this section shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2010 for the State of Georgia.
- (d) Any part of the City of Elberton which is described in subsection (a) this section as begin included in a particular district shall nevertheless not be included within such district if such part is not contiguous to such district. Such noncontiguous part shall instead be included within the district contiguous to such part which contains the least population according to the United States decennial census of 2010 for the State of Georgia."

Those members of the city council of the City of Elberton who are serving as such on the effective date of this Act and any person selected to fill a vacancy in any such office shall continue to serve as such members until the regular expiration of their respective terms of office and upon the election and qualification of their respective successors.

Wards 1, 2, 3, 4, and 5, as they exist immediately prior to the effective date of this Act, shall continue to be designated as Wards 1, 2, 3, 4, and 5, respectively, but as newly described under this Act, and on and after the effective date of this Act, such members of the city council serving from those former wards shall be deemed to be serving from and representing their respective wards as newly described under this Act.

The governing authority of the City of Elberton shall through its legal counsel cause this Act to be submitted for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended, not later than 45 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

## **Sec. 10. Annual election; date.**

There shall be held an election on the last Tuesday in November. The candidate for Mayor and the three (3) candidates for Councilmen receiving the highest number of votes shall be elected for a term of two (2) years from the time of the election and until their successors are elected and qualified, and the two (2) candidates for Councilmen receiving the next highest number of votes shall be elected for a term of one (1) year from the time of their election and until their successors are elected and qualified. At all subsequent elections all of the elective officers of said city shall be elected for terms of two (2) years, electing a Mayor and three (3) Councilmen one (1) year and two (2) Councilmen the next alternately.

(1953 GA. Laws (Act No. 819), page 2987; Ord. No. 865, Section 1, 2-4-85; Ord. No. 875, Section 1, 9-9-85)

**Editor's Note** – Section 14 of this Act provided for a referendum election as to the adoption of the Act. The election having been held and resulting in a favorable vote, said Section 14 is omitted as having been executed.

**Note**\_\_All general municipal elections are mandated to be held on the Tuesday next following the first Monday in November in each odd-numbered year pursuant to O.C.G.A. Section 21-3-51.

## **Sec. 11. Electing Mayor Pro Tem; Mayor's function' Council quorum; necessary votes for passage of this ordinance.**

At the first meeting of City Council after their election and qualification, they shall elect one of their number as Mayor Pro tem. The Mayor shall be the presiding officer of said City Council at all of its deliberations, and he shall name such standing committees from the members of Council as the City Council shall prescribe. In the absence or disqualification of the Mayor, the Mayor pro tem shall be allowed a vote on all questions whether there be a tie or not. The Council, including the Mayor pro tem, shall constitute the legislative body of said city, but no ordinance shall be declared passed and become a law of the city unless it receives at least three (3) votes in favor of its passage.

(1896 Ga. Laws (Act No. 45), page 148; 1947 Ga. Laws (Act No. 67), page 278; 1949 Ga. Laws (Act No. 46), page 182).

## **Sec. 12. Vacancies in office.**

If any vacancy should occur in either of the offices provided for in this Charter, the Council, or a majority of them, may order an election to fill such vacancy, and the person or persons so elected shall hold their offices until the next regular election thereafter. Removal beyond the limits of said city corporation, or conviction of a crime involving moral turpitude in any of the courts of the state, shall vacate the office held by the person so removed or convicted.

(1896 Ga. Laws (Act No. 45), page 148).

**Charter cross-reference**-Office also becomes vacant on removal of residence from ward, Section 9.

## **Sec. 13. Mayor's veto.**

The Mayor of the city shall approve or veto all ordinances, resolutions or other acts of the Council of the city, and every ordinance, resolution or other act of the Council before it shall take effect, shall be approved by him within four (4) days (Sundays excepted), or being disapproved, shall be passed by a two-thirds vote of said Council, such vote to be taken by yeas and nays and entered on the minutes of the Council. In the event any ordinance, resolution or other act of the Council shall



not be approved or vetoed by the Mayor, within the time appointed, the same shall take effect, as if approved by him.  
(1915 Ga. Laws (Act No. 36), page 614).

## DIVISION 2. POWERS GENERALLY

### **Sec. 14. Fire limits, building regulations; building inspection; condemning buildings; animals and fowl; abating nuisances; fire prevention and protection; dangerous businesses; burial; steam engines; vehicles; health.**

The City Council shall have power and authority to establish fire limits for said city, and to change the same from time to time, and to regulate and prescribe the material and the manner of building houses therein, to establish a system of building inspection, and to condemn all such buildings and other structures as are dangerous to the public safety or the safety of any citizen, and to have the same made safe, or removed at the expense of the owner thereof; and upon failure of the owner of such condemned structures to make the safe or remove them, the city authorities may have the same done and collect the expense thereof by execution against the owners, as other executions are collected. The authorities of said city shall also have power and authority to prevent injury or annoyance to the public or individuals from anything dangerous offensive or unwholesome; to prevent dogs, hogs, cattle, sheep, horses, mules, goats, asses, and all other kinds of animals and fowls of all kind from going at large in said city or in any prescribed territory therein, and to regulate the keeping of all such animals and fowls on private lots in said city; to protect places of divine worship; to abate, or cause to be abated, anything which, in the opinion of the authorities or officers of said city, is a nuisance; to regulate the keeping and selling of dynamite, gunpowder, kerosene, and all other hazardous or combustible articles of merchandise; to guard against danger or damage by fire; to regulate or prohibit the operation of blacksmith shops or other businesses that endanger the property of others in said city or any prescribed territory therein; to regulate the running of steam engines, whether for factories, furnaces, cotton gins, cottonseed mills, mills, sawmills, planing mills, or any other kind of machinery propelled by steam engines within the Corporate Limits of the city; to regulate the running of any and all sorts of vehicles, however drawn or propelled, that may be used on the streets of said city; to establish quarantine and regulate the same, and to regulate the burial of the dead in said city.  
(1896 Ga. Laws (Act No. 45), page 148).

### **Sec. 15. Insurance for employees.**

The city shall have power and authority by and through the Mayor and City Council to contract for, procure and maintain group life, accident or disability insurance upon and for the benefit of the officers and employees of the city; provided such insurance shall be obtained and contracted for by the City Manager at the direction of the Mayor and Council in the same manner provided for other purchases made on behalf of the city.  
(1939 Ga. Laws (Act No. 312), page 1056; 1953 Ga. Laws (Act No. 819), page 2987).

### **Sec. 16. City water, sewer and electric light systems – Authority generally.**

The city shall have the power and authority to extend, construct, maintain and operate its water, sewerage, electric light and power lines and systems to any point within the territorial limits of Elbert County, Georgia; and the city shall have authority to furnish water, lights, power, and sewerage connections to persons, firms, and corporations within and without the corporate limits of said city, and to charge for the same; to make reasonable rules and regulations and may make different charges for the use of such utilities within and without the corporate limits of said city.  
(1933 Ga. Laws (Act No. 54), page 940; 1935 Ga. Laws (Act No. 89), page 1067).

## **Sec. 17. Same-Acquisition of rights-of-way, etc.**

The city is authorized and empowered to acquire, by contract, purchase, or condemnation, rights-of-way, easements, and privileges for water, sewerage, electric light and power lines and systems within the corporate limits of the city, and without the corporate limits of the city to any point within the territorial limits of Elbert County, Georgia.

(1933 Ga. Laws (Act No. 54), page 940; 1935 Ga. Laws (Act No. 89), page 1067).

### **Sec. 17.1. [Telecommunications Systems.]**

(1) It is necessary and desirable that the City Council of the City of Elberton, Georgia, have the power and authority to acquire, own, hold, lease, sell, resell, build, maintain, operate and contract with respect to a telecommunications systems network in order to provide telecommunications services and similar other services, to establish and charge rates, fees, tolls, and charges for the services, facilities or commodities furnished or made available by such undertaking; to interconnect its system or services or both with the systems or services of consumers and other providers, to use telecommunications to respond to community needs, encourage the development of information-based organizations in the City of Elberton, Georgia, to finance from time to time any such telecommunication systems through the issuance of revenue bonds as then permitted by the Constitution and laws of the State of Georgia; and to make any contract with respect to and furnish the services of any said systems to consumers within or outside the Corporate Limits of the city.

(2) Notwithstanding anything in this subsection to the contrary, the City Council of the City of Elberton shall have complete and sole control and management of the telecommunications systems network and services of the City of Elberton, Georgia, shall have the power and authority to charge the citizens of the City of Elberton, Georgia, and all other persons, firm(s), corporations or governmental or other entities such sums as may be just and proper for the use of said system and services, shall have power and authority to make all rules and regulations as in its discretion are necessary or proper for the management and control of the telecommunication network and services for the City of Elberton, Georgia, shall have the power to enforce said rules and regulations by refusing to supply or discontinue services to any person, firm, corporation, or government or other entity who fails or refuses to comply with said rules and regulations; and shall have the power and authority to perform all acts that may be in the opinion of said board necessary or proper for the operation and maintenance of said telecommunications systems and services.

(3) All matters relative to the acquisition, development, operation or management, and contracting with respect to, of a telecommunications network for the City of Elberton, Georgia, are hereby delegated to the Utilities Department, and all actions taken prior to the adoption of this ordinance were taken with the concurrence of the City Council of the city and are hereby ratified.

(Ord. No. 2008, Section 1, 8-4-97).

## **Sec. 18. Food Inspection; right of entry; condemning unfit articles.**

The City Council shall have power and authority to regulate by ordinance the keeping of markets, and condemn, in the manner prescribed by ordinance, all meats, vegetables, or other articles of food whatever, which, after inspection, are found to be unwholesome and unfit for food, and shall have the power to seize and destroy all such articles of food as shall be condemned by the inspector, and may punish any persons who sell or offer for sale any such articles of food in the city; and to enforce this provision the inspector or officers of the city shall have the right, without warrant, to enter any place of business or other place where there is reason to suspect that such article of food are being sold or offered for sale, and to condemn, seize, and destroy the same, or otherwise dispose of it as may seem best to said officers.

(1896 Ga. Laws (Act No. 45), page 148).

## **Sec. 19. Spirituous liquors-Authority generally.**

The authorities of the city shall have the power and authority to regulate the sale of spirituous liquors within the limits of the city where not inconsistent with the laws of this state; to fix the price of licenses and to grant licenses for the sale thereof in any quantity, and to punish for the unlawful sale of spirituous liquors in the city where not inconsistent with the laws of this state; to prevent the keeping of spirituous liquors for unlawful purposes within the city and to punish therefore; upon sworn information, to enter without warrant and to inspect any place of business or other place in the city where there is reason to suspect that spirituous liquors are kept therein for unlawful sale, and to seize and hold such articles and things as may be found therein, to be used as evidence of a violation of any ordinance of the city or law of the state.

(1896 Ga. Laws (Act No. 45), page 148).

## **Sec. 20. – Adoption of ordinances prohibiting.**

The city shall have the power to pass any and all ordinances prohibiting the sale and delivery of intoxicating liquors in any quantity within the Corporate Limits of the city or the sale or delivery of intoxicating liquors within the Corporate Limits of the city; and to fix the punishment for the violation of any and all such ordinances so that said punishment does not exceed the power to punish already granted said city.

(1907 Ga. Laws (Act No. 283), page 591).

## **Sec. 21. Road duty.**

The City Council shall have power and authority to require all persons within the Corporate Limits of said city, subject to road duty under the laws of this state, to work on the streets of said city, or they may fix a commutation tax, which may be paid in lieu of work on the streets.

(1896 Ga. Laws (Act No. 45), page 148).

## **Sec. 22. Abandoned personal property.**

The governing authority of the city is authorized and empowered to sell abandoned personal property which comes into the possession of the city, and to place the proceeds in the city treasury. Any personal property which remains in the possession of the city for a period of thirty (30) days without being claimed shall be considered to be abandoned. The governing authority of the city is hereby authorized to enact ordinances to prescribe the procedure for carrying out the provisions of this section.

(1958 Ga. Laws (Act No. 97), page 2352).

**Editor's Note** – The provisions of this section have been superseded by O.C.G.A., Section 36-37-1 et seq.

## **Sec. 23. Sale and lease of city property, generally.**

(a) Except as otherwise provided in this Code [Charter] Section, the city in disposing of any real or personal property owned by the city shall make all such sales to the highest responsible bidder, either by sealed bids or by auction after due notice has been given. The city shall have the right to reject any and all bids or to cancel any proposed sale. The city shall cause notice to be published once in the official legal organ of the county in which the city is located or in a newspaper of general circulation in the community not less than fifteen (15) days nor more than sixty (60) days preceding the day of the auction or, if the sale is by sealed bids, preceding the last day for the receipt of proposals. The legal notice shall include a general description of the property to be sold if the property is personal property or a legal description of the property to be sold if the property is real

property. If the sale is by sealed bids, the notice shall also contain an invitation for proposals and shall state the conditions of the proposed sale, the address at which bid blanks and other written materials connected with the proposed sale may be obtained, and the date, time and place for the opening of bids. If the sale is by auction, the notice shall also contain the conditions of the proposed sale. Bids received in connection with a sale by sealed bidding shall be opened in public at the time and place stated in the legal notice. A tabulation of all bids received shall be available for public inspection following the opening of all bids. All such bids shall be retained and kept available for public inspection for a period of not less than sixty (60) days from the date on which such bids are opened.

(b) The governing authority of the city is authorized to sell personal property belonging to the city which has an estimated value of five hundred dollars (\$500.00) or less and lots from any municipal cemetery, regardless of value, without regard of subsection (a) of this Code section. Such sales may be made in the open market without advertisement and without the acceptance of bids. The estimation of the value of any such personal property to be sold shall be in the sole and absolute discretion of the governing authority of the city or its designated agent.

(c) Nothing in the [this] Code section shall prevent the city from trading or swapping property with another property owner if such trade or swap is deemed to be in the best interest of the municipal corporation.

(d) The governing authority of the city is authorized to sell real property in established municipal industrial parks or in municipally designated industrial development areas for industrial development purposes without regard to subsection (a) or (b) of this Code section.

1. This Code shall not apply to the disposal of property:

- a. Which is acquired by deed or gift, will, or donation and is subject to such conditions as may be specified in the instrument giving or donating the property.
- b. Which is received from the United States government or from the State of Georgia pursuant to a program which imposes conditions on the disposal of such property.
- c. Which is disposed of pursuant to the powers granted in O.C.G.A., Section 36-61 et seq., the "Urban Redevelopment Law", or a homesteading program;
- d. Which is sold or transferred to another governing authority or government agency for public purposes; or
- e. Which is no longer needed for public road purposes and which is disposed of pursuant to O.C.G.A., Section 32-7-4.

(e) Notwithstanding any provisions of this Code section or of any other law or any ordinance to the contrary, the governing authority of the city is authorized to sell real property within its Corporate Limits for museum purposes to either a public authority or a nonprofit corporation which is classified as a public foundation (not a private foundation under the United States Internal Revenue Code), for the purpose of building, erecting and operating thereon a museum or facility for the development or practice of the arts. Such sale may be made in the open market or by direct negotiations without advertisement and without the acceptance of bids. The estimation of the value of any property to be sold shall be in the sole and absolute discretion of the governing authority of the city or its designated agent; provided; however, that nothing shall prevent the city from trading or swapping property with another property owner if such trade or swap is deemed to be in the best interest of the city.

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

(g) Notwithstanding any provision of this Code section to the contrary or any other provisions of law or ordinance to contrary, whenever the city determines that the establishment of a facility of the State of Georgia or of the United States of America, or one of its authorities or other instrumentalities would be of the benefit of the city, by way of providing activities in an area in need of redevelopment, by continuing or enhancing local employment opportunities, or by other means or in other ways, such municipal corporation may sell or grant any of its real or personal property to the state or to any of its authorities or instrumentalities, or to the United States of America, the State of Georgia, or one of its authorities or instrumentalities, and further, may sell or grant such lesser interests, rental agreements, licenses, easements, and other dispositions as it may determine necessary or convenient. These powers shall be cumulative of other powers and shall not be deemed to limit their exercise in any way, to said governing authority advantages to the city [sic], subject to the following:

- (1) Before any real property, with or without improvements, of the city shall be leased, the proposed lease must be approved at two (2) successive meetings of the City Council; and
- (2) Notice of the consideration of the proposed lease must be published in the official organ of Elbert county, Georgia, at least fifteen (15) days before the second Council meeting for approval; and
- (3) No lease shall be entered into unless the City Council makes a specific finding that the real property is no longer required for municipal or other public use, and further that where a private benefit is to be conferred, that the benefit arising to the public is the primary purpose supporting the lease.
- (4) No lease shall exceed a term of twenty-five (25) years unless assented to by a majority vote of the qualified voters of the city at an election held for that purpose.

(1959 Ga. Laws (Act No. 419), page 3205; Ord. No. 12005, Section 2,8-3-92.

**Editor's Note** – The term "Code" in this section means "Charter."

## **Sec. 24. Zoning of city.**

The Mayor and City Council may, in the interest of public health, safety, order, convenience, comfort, prosperity, or general welfare, adopt by ordinance a plan or plans for the districting or zoning of the city for the purpose of regulating the location of trades, industries, apartment houses, dwellings, or other uses of property; or for the purpose of regulating the height of the buildings, fences, or other structures, or the area or dimensions of lots or of the yards used in connection with buildings or other structures; or for the purpose of regulating the alignment of buildings or other structures near street

frontage. The zoning regulations may be based upon any one or more of the purposes above described. The city may be divided into such number of zones or districts, and such districts may be of such shape and area, as the Mayor and City Council shall deem best suited to accomplish the purposes of the zoning regulations. In the determination and establishment of districts and regulations, classifications may be based on the nature or character of the trade, industry, profession, or other activity conducted or to be conducted upon the premises; the number of persons, families, or other group units to reside in or use said buildings; the public, quasi-public, or private nature of the use of the premises; or upon any other basis or bases relevant to the promotion of the public health, safety, order, morals, conveniences, prosperity or welfare.  
(1941 GA. Laws (Act No. 268), page 1416).

**Editor's Note** – Section 1 of the 1941 Act contained a preamble and is omitted.

#### **Sec. 25. Disorderly houses.**

The city shall have full power and authority to pass any and all ordinances to prevent keeping open tippling houses, lewd houses, disorderly houses, and gaming houses and to punish violations of any such ordinances and to provide punishment for those who frequent or visit any of the above-named houses for immoral purposes.  
(1907 Ga. Laws (Act No. 283), page 1416)

#### **Sec. 26. Concealed weapons; loitering and idleness.**

The city is empowered to pass all ordinances to prevent and suppress carrying concealed weapons of any kind whatever, and to prescribe punishment for the violation of such ordinances, and to pass all ordinances to prevent and suppress idleness, loafing and loitering on the streets in the city and to prescribe punishment for the violation of any such ordinance; and to pass all ordinances to prevent and suppress loitering, loafing and idleness in the city, whether on the streets or otherwise.  
(1907 GA. Laws (Act No. 283), page 591).

#### **Sec. 27. Gambling; obscene language; intoxication.**

The city is empowered to pass any and all ordinances to prevent and to suppress gambling of any and all kinds within the Corporate Limits of the city and to prescribe punishment for the violation of any such ordinance; to pass any and all ordinances to prevent and suppress the use of vulgar and obscene language upon the streets of the city or within the Corporate Limits of the city, and to prevent and to suppress intoxication within the city or on the streets of the city, and to prescribe punishment for the violation of any such ordinance.  
(1907 Ga. Laws (Act No. 283), page 591).

**Editor's Note** – Certain provisions of this section are no longer operative as gambling is controlled by state statutes and the use of the terms "vulgar and obscene language" has been held to be vague and overbroad and therefore unenforceable by recent U. S. Supreme Court decisions.

#### **Sec. 28. Sunday ordinances.**

The city shall have power to pass any and all ordinances prohibiting acts in violation of the Sabbath day in the city and to prevent the doing of any act by any person in the pursuit of his business, or the work of his ordinary calling, on the Lord's Day, work of necessity or charity excepted, and to punish therefore (1907 Ga. Laws (Act No. 283), page 591).

**Editor's Note** – The provisions of this section are no longer operative as this type of "power" to prohibit certain acts on Sunday has been declared unconstitutional.

### **ARTICLE III. CITY MANAGER**

#### **Sec. 29. Appointment and election; ineligibility of Mayor and Councilmen to city employment.**

The City Council shall select and appoint a City Manager whose salary shall be fixed by Council and whose term of office shall be indefinite and whose duties, powers and qualifications shall be as hereinafter provided. The Mayor and Members of the City Council shall be ineligible for the office of City Manager for the period of two (2) years from the time of the expiration of their term of office, nor shall they be eligible for employment in any capacity by the city within such period. (1953 Ga. Laws (Act No. 819), page 2987).

#### **Sec. 30. Powers and duties; qualifications; residence; employment exclusive.**

It shall be the duty of the City Manager to execute and administer the policies of the city government fixed by the Mayor and Council and the City Manager shall be vested with sole authority over all administrative matters of the city, and he shall be accountable only to the City Council. The City Manager shall be selected by the Council on the basis of ability, experience, training and character with special reference to his actual experience in, or his knowledge of, acknowledged practice in respect to the duties of his office. The City Manager at the time of his appointment may be a resident of Elberton, Elbert County, Georgia, but said City Manager need not necessarily be a resident of Georgia at the time of his appointment. During his tenure of office he shall reside within the City of Elberton or the County of Elbert and shall devote his entire time to the duties of his office, and shall not engage in any other business or profession. (1960 Ga. Laws (Act No. 738), page 2729).

#### **Sec. 31. Employee Control; minimum bond; duties.**

The City Manager shall have the power to appoint, prescribe the duties of, supervise and remove all administrative employees, except the City Recorder and the City Attorney. The affairs of each department of the city, including the collection and disbursement of revenue, are to be administered under his supervision and control, and he is to be responsible therefore. Neither the Council nor any of its committees shall direct or request the appointment of any person to, or his removal from office by the City manager, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately. The City Manager shall give bond for the faithful administration of his office in such amount as Council may determine, but in no event in a sum less than one hundred thousand dollars (\$100,000.00), the premium for which is to be paid by the city. The City Manager may require subordinate employees to likewise give bond in an amount to be determined by him, but subject to the approval of the Council, the premiums of such bond as may be required to be paid by the city.

It shall also be the duty of the City Manager to act as chief conservator of the peace within the city; to supervise the administration of the affairs of the city; to see that the ordinance of the city and the laws of the state are enforced therein; to make such recommendations to the Council concerning the affairs of the city as may seem to him desirable; to keep the Council currently advised of the financial condition and future needs of the city; to prepare and submit; as hereinafter provided for, to the Council an annual budget estimate; to prepare and submit to the Council regular quarterly reports of the affairs and finances of the city, these reports to be in such form as to be readily understood by

the public, and cause the same to be published in some local newspaper of general circulation; to act in an advisory capacity to the City Council in the formulation of policies of the city government. It shall be the duty and the responsibility of the City Manager to do all the buying for the different departments of the city; said department heads shall make written requisition for the needs of their departments and present the same to the City Manager; the City Manager shall then with the consent of the Council make such purchases as may be necessary, taking into consideration the budget of the city for that fiscal year. He shall perform such other duties and exercise such other authority as the City Council may fix by resolution or ordinance. All formal contracts on behalf of the city shall be executed by the City Manager and attested by the City Clerk, after an approving resolution of City Council. (1953 Ga. Laws (Act No. 819), page 2987).

**Sec. 32. Recommending compensation for administrative personnel.**

The salary or compensation of heads of departments and other administrative employees shall be fixed by ordinance or resolution of Council upon the recommendation of the City Manger, such ordinance or resolution of Council to provide uniform compensation for like services, except that an increase in compensation of any department head or employee may be granted upon the basis of seniority and efficiency. (1953 GA. Laws (Act No. 819), page 2987).

**Sec. 33. Submitting estimated budget; adoption of budget and passage of effectuating ordinances by Council.**

At least forty (40) days prior to the beginning of the fiscal year, the City Manager shall prepare a budget estimate which he shall transmit to Council, and which shall set forth all proposed expenditures for the administration, operation and maintenance of all departments and agencies of the city for which appropriations are required to be made or taxes levied by the city government; all expenditures for capital projects to be undertaken or executed during the fiscal year; all interest and debt redemption charges during the fiscal year; and the actual or estimated operating deficits from prior years. In addition thereto, the budget estimate shall set forth the anticipated income and other means of financing the total proposed expenditures of the city government for the fiscal year. As soon thereafter as possible, the Council shall adopt a budget and pass the tax levy ordinance and such other ordinances as may be required to make the budget effective. (1953 Ga. Laws (Act No. 819), page 2987).

**Sec. 34. Removal from office; substitute when absent or disabled.**

While the Council has the right to remove the City Manager at any time, at least thirty (30) days before such removal becomes effective, the manager shall be furnished with a formal statement in the form of a resolution passed by a majority vote of the members of Council, stating the Council's intention of removing him and the reasons therefore. If requested in writing by the City Manager so to do the Council shall fix a time for a public hearing upon the question of his removal, giving notice of the time and place of same by publishing such notice in some local newspaper of general circulation, and the final resolution, removing the City Manager, shall not be adopted until such public hearing shall be had. The action of Council in removing the City Manager shall be final. In the case of the



absence or disability of the City Manager, Council may designate a qualified administrative officer of the city to perform the duties of the City Manager during such absence or disability. (1953 GA. Laws (Act No. 819), page 2987).

#### **ARTICLE IV. MUNICIPAL JUDGE \***

##### **Sec. 35. Election; salary as fixed; vacancy in office; fines and penalties.**

The court for the trial of offenses against the ordinances of the city shall be known as the Municipal Court, and at the first meeting of the City Council after their election and qualification, they shall elect a Municipal Judge for the ensuing year, and until his successor is elected and qualified, to hold said court. His salary shall be fixed by the City Council, and he shall take such oath as may be prescribed by that body. Any vacancy in the office of Municipal Judge shall be filled by the City Council. Such judge shall hold said court and may exercise all the powers conferred by law upon the judge and may punish for any violation of the ordinances of the city by a fine not exceeding one thousand dollars (\$1,000.00), imprisonment in the city jail or imprisonment in the county jail by permission of the county authorities, not exceeding one (1) year, or work on the street chain gang, or other public work under the supervision of the Chief of Police or the Superintendent of the Street Department, not exceeding one (1) year, any one or more, or all of these, at the discretion of the Municipal Court. When sitting as a court for the trial of offenses, the said court shall have the power to punish for contempt by fine not exceeding one hundred dollars (\$100.00), imprisonment or work in the manner already prescribed in this section for not exceeding fifty (50) days, one or both, at the discretion of the Municipal Court. Any judgment of the Municipal Court may be reviewed by certiorari to the Superior Court of Elbert County, as provided by law in such cases.

(1896 Ga. Laws (Act No.45), page 148; 1947 GA. Laws (Act No. 67), page 278; 1949 Ga. Laws (Act No. 46), page 182; Ord. No. 741, Section 1, 5-2-77; Ord. No. 833, Section 1, 9-13-82; Ord. No. 847, Section 1-11-7-83).

**\*Editor's Note** – The terms “recorder” and “recorder’s court” have been changed to “Municipal Judge” and “Municipal Court” throughout this article in accordance with O.C.G.A. Section 36-32-1.

##### **Sec. 36. Jurisdiction; warrants.**

The Municipal Judge shall be authorized to issue warrants for offenses committed within the Corporate Limits of said city against any law or ordinance of said city or this state, and when the offense is against the state the judge may hear evidence and commit to jail or take bond for appearance before the State Court having jurisdiction of the offense, as a justice of the peace could do. If the offense charged in the warrant be one against the laws or ordinances of the city, the arresting officer shall carry the case before the Municipal Court and none other, and the same shall there be disposed of as other causes of arrest not made under warrant. All warrants issued by the Municipal Judge, or those acting in his stead, shall be directed to the Chief of Police of Elberton, any policeman or marshal thereof, and to all and singular the sheriff's, deputy sheriffs and constables of this state, and any one of said officers shall have the same authority to execute said warrant as the sheriffs of this state have to execute criminal warrants.

(1896 Ga. Laws (Act No. 45), page 148; 1947 Ga. Laws (Act No. 67), page 278, 1949 Ga. Laws (Act No. 46), page 182).

##### **Section 37. Witnesses.**

The Municipal Judge, or those holding the municipal Court in his stead, shall have the power and authority to subpoena witnesses to attend the Municipal Court under the same rules and regulations that regulate and govern the superior courts of this state, to compel their attendance, and

to punish any witness who has been subpoenaed and fails to attend, under the provisions for contempt already provided for in this Charter. (1896 Ga. Laws, (Act. No. 45), page 148; 1947 Ga. Laws, (Act. No. 67,) page 278; 1949 Ga. Laws (Act No. 46), page 182)

## **ARTICLE V. TAXATION AND LICENSES\***

### **Sec. 38. Taxing and licensing authorized generally.**

The City Council shall have full power and authority to levy a special tax, not exceeding ten (10) mills on each dollars, as street tax, and expend the same in opening and improving streets, sidewalks, crosswalks, alleys, lanes, avenues, public parks and grounds; also to levy and collect a tax upon all and every species of property in said city subject to state and county tax; upon banking and insurance capital employed in said city; upon brokers and factors; upon each an every business, calling, trade or profession carried on in said city; upon billiard and pool tables, bowling alleys, bank, insurance, telegraph and express agencies in said city; to tax al theatrical performances, shows and exhibitions for gain, or any kind of profit in said city; to tax all itinerant traders or peddlers, all vendors of patent medicines, drugs, books, nostrums, or devices of any kind; to tax all solicitors or canvassers selling goods, wares, or merchandise by sample at retail to consumers. All of said taxes except the tax on real or personal property which shall be ad valorem, and not exceeding the constitutional or statutory limitations, shall be in the nature of a license, which must be paid in advance of doing business or carrying on the trade or occupation, or canvassing or offering for sale any of the articles above set forth, and the Council shall provide by ordinance for the punishment of all parties required to take out license, who do, or attempt to do, any business before taking out such license and complying fully with all the requirements of said Council, made in reference thereto. (1896 Ga. Laws (Act. No. 45), page 148).

### **Sec. 39. Council to provide for giving in taxes, etc.; Board of Assessors.**

The City Council shall have full power and authority to provide the manner of giving in taxes of said city, to appoint three (3) citizens of said city who are freeholders thereof as tax assessors of said city, whose duty it shall be to place a just, fair, and equitable valuation on the property within the corporate limits of said city subject to city taxes, whether given in for taxes by the owner thereof or not, to equalize and adjust the tax returns of all owners of property within said city; the said Board of Assessors to give to any citizen or property owner an opportunity to appear before them and make objection to the valuation placed by them upon any piece of property, and if in the judgment of said assessors the valuation first fixed be too high, they may change the same, but in all cases the decision of the assessors after the property owner has appeared before them, or had notice to appear before them, shall be final. Publication in any newspaper published in said city ten (10) days before the day fixed for hearing complaints shall be deemed sufficient and legal notice under this section. Provided, however, the City Council shall provide a manner of giving in taxes so designed as to placed the giving in of taxes and the functions of the Board of Tax Assessors under this section under the general administrative supervision and direction of the City Manager. (1896 Ga. Laws (Act No. 45), page 148; 1953 Ga. Laws (Act No. 819), page 2987).

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\***State Law References** – Taxation power of municipal and county governments, Ga. Const. art. 9, sec. 4, par. 1; Municipal Taxation, O.C.G.A. Section 48-5-35 et seq.

### **Sec. 40. Employment of professional help in tax matters.**

In addition to all other duties, the City Tax Assessors are authorized and empowered to employ and contract with persons skilled in matters pertaining to taxation for the purpose of assisting the city Tax Assessors in assessing and appraising the property the property in the city. The tax assessors are also authorized and empowered to employ and contract with such persons for the purpose of assisting, advising and making recommendations to the assessors on all matters relating to taxation in the city. Any such employment or such contract shall be subject to the final approval of the Mayor and City Council who, after authorizing said employment, shall authorize the City Manager to sign in its behalf. Before said outside professional help is employed, the Mayor and City Council shall have published in the public gazette of said county once a week for eight (8) consecutive weeks notice of their intentions that the public might be heard. The funds necessary to carry out the provisions of this section shall be paid from the funds of the city.  
(1958 Ga. Laws (Act No. 97), page 2352).

**Sec. 41. Providing due date, tax executions; levy; advertisement; deeds; taking bonds by levying officers; levying officers' costs.**

The City Council shall have power and authority to provide, by ordinance, when the taxes of said city fall due, and the City Manager shall have power and authority to issue tax executions for all taxes that have not been paid on or by the day fixed when they shall be paid, which execution shall be directed to the Chief of Police, and all and singular the marshals of Elberton. Said tax executions, when issued, shall be placed in the hands of the Chief of Police or some Marshal of said city, whose duty and authority it shall be to levy the same, upon any property, real or personal, within the Corporate Limits of said city; if the execution be for a sum less than one hundred dollars (\$100.00), and the property levied upon personal property, the same may be advertised as constables' sales are now advertised, by posting the advertisement in three (3) or more places in said city, one of which shall be at the courthouse door where the Mayor [Municipal Judge] holds his court if the execution be for a sum greater than one hundred dollars (\$100.00), or the levy be upon real estate, the same shall be advertised by the levying officer under the same terms and under the same regulations and in the same paper that the sheriff's advertisements for the County of Elbert are made. The deed of the Chief of Police or marshal, making the sale under executions by the city authorities, shall pass the title to the property sold to the purchaser as completely and absolutely as the deed of the defaulting taxpayer would have done; provided, however, that any person whose property has been sold for taxes shall be allowed to redeem the same by paying to the purchaser, at any time within twelve (12) months from the date of the sale, the full amount of his bid, with ten percent (10%) premium thereon. The officers making the levy under executions issued by the authorities of said city shall have full power and authority to take bonds for the forthcoming of personal property levied upon by them, payable to themselves, which bonds may be sued upon by such officers, for the use of the city, in any court having jurisdiction of the person and subject matter of such bonds. The levying officers of such executions shall receive costs for their services as follows: if the execution is less than one hundred dollars (\$100.00), the costs allowed constables shall be received by them; if the execution be greater than one hundred dollars (\$100.00), the costs allowed sheriffs shall be received by them.  
(1896 Ga. Laws (Act No. 45), page 148; Ga. Laws (Act No. 819), page 2987).

**Section 42. Contest of taxes; procedure.**

Should an affidavit of illegality be filed to an execution issued by the authorities of said city (which may be done under the same rules that prevail in state courts), or any property levied upon be claimed by a person not a party to the execution, said claim shall be interposed under the same rules, restrictions and regulations that govern claim cases in the courts of the state and such claims and illegalities shall be returned for trial to the Justice's Court or Notary's Public Court that is held in the City of Elberton or the city court or Superior Court of Elbert County, the one having jurisdiction, as the case may be.  
(1896 Ga. Laws (Act No. 45), page 148).

**Editor's Note** – The provisions of this section have been superseded by state statute.

## **ARTICLE IV. PUBLIC IMPROVEMENTS**

### **DIVISION 1. GENERALLY**

#### **Sec. 43. Acquiring, holding and using real estate.**

The city shall have full power and authority to purchase, hold, own and receive as donations any real estate within the Corporate Limits of the city or outside of said city limits, and improve the same as parks or erect thereon buildings for the use and to be used in the operation of the city electric lighting plant or the city water plant, the city fire department or any other department of said city. (1906 Ga. Laws (Act No. 357), page 745).

#### **Sec. 44. Bond issues; debt limitations**

The City Council shall have power to contract debts and issue bonds of said city, under and in accordance with the limitations provided in the constitution of the state with the general laws of the state applicable to municipalities, and with the fund arising from the sale of any bonds thus issued may refund any existing debts; establish and maintain a system of waterworks, a system of lights, erect public buildings or any other improvements, convenience or necessity, for the use of the citizens of said city, and to create a debt and issue bonds of said city for any other purpose under the limitations herein stated.

\*1896 Ga. Laws (Act No. 45), page 148; 1929 Ga. Laws (Act No. 44), page 1089; 1953 Ga. Laws (Act No. 675), page 2582; Ord No. 1006, Section 1, 8-3-92).

#### **Sec. 45. Public purposes; layout of and improving streets, sewers, drains, sidewalks, etc.**

The authorities of the city shall have power and authority to condemn and appropriate, as hereinafter provided, private property for public use; to lay off and open new streets, alleys, lanes, or other ways for the convenience of the public or any citizen of said city; to vacate, close, alter, widen, curb, pave and keep in good order and repair all streets, avenues, alleys, lanes, sidewalks, crosswalks, drains, sewers and gutters, for public or private use; to improve and light the streets, public parks and grounds; to furnish water and lights for private use, and to charge therefore; to keep all public grounds, streets, sidewalks, crosswalks, avenues, alleys, lanes, or other ways free from obstructions of any kinds; to regulate the width of sidewalks and crosswalks on the streets; to grade and change the grade of any and all streets, sidewalks, crosswalks, avenues, alleys, lanes, or other ways, without any liability for damage therefore; to require adjacent landowners to curb, pave, and improve sidewalks at their own expense, under the direction of the authorities of said city, and upon failure of the landowners to do so, the authorities of said city may have such work done and collect the cost thereof from the adjacent landowners by execution as other taxes are collected. (1896 Ga. Laws (Act No. 45), page 148).

#### **Sec. 46. Street improving-Authority generally; assessment of adjoining property.**

Power is granted to the City Council to adopt at any time an ordinance requiring the grading, paving, macadamizing or otherwise improving for travel or drainage any of the streets or alleys of said city or parts of the same, and the Council shall have full power and authority to assess and collect

one-half (1/2) of the costs of such grading; paving, macadamizing or other improvement on and out of the real estate abutting on said street or the portion thereof so improved; provided, the costs of grading and macadamizing between the tracks of any street railroad or other railroad tracks and for one (1) foot on each side of the track now having or that may hereafter have any tracks on the streets of said city, lanes or alleys of said city, shall be assessed against such railroad company or companies.

(1906 Ga. Laws (Act No. 357), page 745, 1921 Ga. Laws (Act. No. 115), page 932).

**Sec. 47. Same – Portion of street; assessment of adjoining property.**

The City Council shall have full power and authority to grade, pave, macadamize or otherwise improve any portion of the width of any street, alley or lane in said city, and to assess the costs of such grading, paving, macadamizing or otherwise improving on real estate abutting on each side of the street, alley, or lane improved, one-half (1/2) of the cost.

(1906 Ga. Laws (Act No. 357), page 745; 1921 Ga. Laws 9Act No. 115), page 932).

**Sec. 48. Same – Intersecting streets; assessments against the city.**

The frontage of intersecting streets, lanes and alleys shall be assessed against the city, and paid for by the city, and the City Council shall have full power and authority to pay therefore the entire costs of all frontage of the intersecting streets, lanes and alleys out of the treasury of the city.

(1906 Ga. Laws (Act No. 357), page 745).

**Sec. 49. Sidewalk improvements; assessment against abutting property.**

The City Council shall have full power and authority to curb, pave, macadamize or otherwise improve any sidewalk in the city, and to assess two-thirds (2/3) of the costs thereof against the real estate abutting on the side of the street whereon such sidewalk is so improved.

(1906 Ga. Laws (Act No. 357), page 745).

**Sec. 50. Assessment for repair.**

The City Council shall have full power and authority to repair any pavement or improvement of any street or sidewalk in said city, at the expense of the city; and assess one-half (1/2) of the cost of such repair against the owners of the abutting real estate on each side of such street, alley or lane, in case of repairing a street, alley or lane, and one-half (1/2) of the cost of repairing a sidewalk against the abutting real estate on the side of the street, lane or alley on which such sidewalk is located.

(1906 Ga. Laws (Act No. 357), page 745).

**Sec. 51. System of equalization.**

The City Council shall have full power and authority to adopt by ordinance a system of equalization for the assessment of costs for improvements made by said city, and prorating the costs thereof on the real estate according to the frontage on the street or sidewalk so improved.

(1906 Ga. Laws (Act No. 357), page 745).

**Sec. 52. Lien of Assessment.**

The amount of the assessment on each piece of real estate shall be a lien on said real estate, and the amount of the assessment on each railroad company shall be a lien on all the property of such railroad company from the date of the passage of the ordinance providing for the work.

(1906 Ga. Laws (Act No. 357), page 745).

**Sec. 53. Payment of assessments in installments.**

The Council shall have power and authority to divide any assessment into annual or semiannual installments, not to cover more than two (2) years, to bear interest at seven percent (7%) per annum from the time the assessment is due; and upon failure to pay any installment at the time it is due, execution shall issue for the whole unpaid assessment with interest. (1906 GA. Laws (Act No. 357), page 745).

**Sec. 54. Executions for assessments-Levy and sale of lands; defense procedure.**

The City Council shall have power to enforce the collection of any assessment under this Charter by execution to be issued by the City Manager against the real estate so assessed, and against the owner thereof at the date of the ordinance making the assessment, which execution may be levied by the City Marshal or Chief of Police on such real estate, and after advertising and other proceedings as in cases of sales for taxes due the city, the same may be sold at public outcry to the highest bidder, and be subject to the right of redemption and purchase by the municipality in the manner set forth in an Act entitled An Act to Provide for the Manner of Tax Sales by Municipal Corporations in This State, and for Other Purposes, approved February 27, 1877; provided, the defendant shall have the right to file his affidavit to the whole or any part of the assessment for which execution issued, stating what amount he admits to be due and what part he denies to be due, which amount he admits to be due shall be paid or collected before the affidavit shall be received for the balance; and such affidavits shall be returned to the Superior Court of Elbert County, and shall be there tried with all the pains and penalties provided in cases of illegality for delay. Assessments against railroad companies shall be collected in the manner above set forth. The deeds made to purchasers by the proper officers of the city under this charter shall be just as valid to the purchaser as if made under the ordinary process of law issuing from the superior court. All executions issued under the authority of this Charter shall be transferable upon the same terms and conditions that executions for taxes are transferable. (1906 Ga. Laws (Act No. 357), page 745; 1953 Ga. Laws (Act No. 819), page 2987).

**Sec. 55. Same – Directed to police.**

Said executions shall be issued by the City Manager of said city and directed to the Marshal or Chief of Police and levied by either said Marshal or Chief of Police. (1906 Ga. Laws (Act No. 357), page 745; 1953 Ga. Laws (Act No. 819), page 2987).

DIVISION 2. CONDEMNATION\*

**Sec. 56. Payment for property appropriated.**

Whenever it is desired by the authorities of the city to appropriate private property to public use, and they do not procure the same from the owners thereof by contract or purchase, the title to such property may be acquired upon paying or tendering the owners thereof, or to his, her, its or their legally authorized representative, just and reasonable compensation for the property desired and sought to be appropriated to public use, which compensation, when not otherwise agreed upon shall be assessed and determined as now provided by the general law of the state on this subject. (1896 Ga. Laws (Act No. 45), page 148).

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\***State law reference**-Authority to exercise the right of eminent domain in extending or constructing water systems or sewage systems, O.C.G.A. Section 36-34-5.

**Sec. 57. Authority generally.**

Whenever said city cannot procure by contract any land, easement, waterway, right-of-way, franchise or other interest or property useful, needful and necessary for public purposes, the city shall have the full power and authority to take or damage the same, whether the same be located within or outside of the corporate limits of the city, by first paying the owner thereof or tendering the owner thereof just and adequate compensation for the land, franchise, waterway, right-of-way or other interest or property to be taken. If the parties cannot agree upon the compensation to be paid, the same may be determined as now provided by the Charter [section 59].  
(1906 Ga. Laws (Act No. 357), page 745).

**Sec. 58. Diversion of water outside city.**

If the City of Elberton shall desire and determine to divert any water from any spring in the county of Elbert outside of said city, or non-navigable stream in the county of Elbert or bordering on said County of Elbert and outside of said city, and cannot by contract procure the right to do so from any property owner below the point at which such water is diverted, or the owner of such spring, then it shall be lawful for the city to divert the water of any such spring or stream by paying or tendering to the owner of such spring, or property on such stream below the point at which such water is to be diverted by the city, just and adequate compensation therefore or for the damage thereto.  
(1905 Ga. Laws (Act No. 269), page 824).

**Sec. 59. Procedure under state law:**

If the parties cannot agree upon the compensation to be paid, the same shall be assessed and determined as prescribed in O.C.G.A. Sections 22-1-8-22-2-61; with all the rights and privileges therein set forth.  
(1905 Ga. Laws (Act No. 269), page 824).