

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 1018
HOUSE BILL 2241

AN ACT REVISING AND CONSOLIDATING THE CHARTER OF BESSEMER CITY.

The General Assembly of North Carolina enacts:

Section 1. The Charter of Bessemer City is revised and consolidated to read:

"THE CHARTER
OF

BESSEMER CITY, NORTH CAROLINA.

"CHAPTER I. ORGANIZATION AND POWERS.

"ARTICLE A. INCORPORATION OF CITY; CORPORATE POWERS.

"Section 1.10. Incorporation of City and Corporate Powers.

(a) The inhabitants of the City of Bessemer City, in the County of Gaston, State of North Carolina, shall continue to be and constitute a body politic incorporated within the boundaries as established in Article B of this Chapter, or as hereafter established in the manner provided by law, may have and use a corporate seal, and shall have perpetual succession and shall be a city under the name and style of 'Bessemer City.' Under such name the City shall continue to be vested with all of the property and rights of property which now belong to the corporation; may sue and be sued; may contract and be contracted with; may acquire and hold such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to, whether voluntarily or involuntarily, or otherwise acquired by it, and from time to time may hold or invest, sell, or dispose of the same; may have a common seal and alter and renew the same at will and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.

(b) In addition to the foregoing, the City shall have, acting through its Council, among other things, power to make and provide for the execution of such ordinances for Bessemer City (hereinafter referred to as the 'City') as they may deem proper not inconsistent with the laws of the State of North Carolina, now or hereafter granted to municipalities under the general law of the State of North Carolina, and the City is specifically granted in addition to the foregoing, the following powers which are in addition to all other powers and authority set out in this Charter:

- (1) Eminent Domain. To condemn land required for any governmental purpose, both within and without the City limits, and in such excess as may be required to protect or preserve same, under the same procedure as now or hereafter provided in the General Statutes.

- (2) Exercise of Police Power. To adopt and enforce within its corporate limits and within one mile thereof police, sanitary, and other police power regulations not inconsistent with the General Statutes and all amendments thereto, including extraterritorial zoning authority as authorized by the General Statutes which are hereby declared to be applicable to the City, provided, however, that the boundaries of such corporate limits and the one-mile area be defined in terms of geographical features identifiable on the ground, to the extent feasible, as provided by general statute;
- (3) Borrow Money. To borrow money within the limits prescribed by law;
- (4) Appropriate Money. To appropriate the money of the City for all lawful purposes in accordance with the applicable provisions of the General Statutes.
- (5) Payment of Debt. To provide for the payment of existing legal indebtedness and of any binding obligation that may be made from time to time by the City and to appropriate funds and levy taxes for that purpose;
- (6) Ordinances to Preserve Order. To pass ordinances for the due observance of Sunday and for maintenance of order in the vicinity of churches, schools, and public buildings;
- (7) Cemeteries. To own, establish, regulate and operate one or more cemeteries and to regulate the burying of the dead;
- (8) Ownership of Public Facilities. To own, operate, maintain, or cease to maintain, parks, hospitals, auditoriums, swimming pools, community centers, playgrounds, stadiums, athletic parks and fields, and such other facilities for the benefit and welfare of its citizens and to finance same out of tax revenue or any portion of the General Fund; provided such appropriations do not exceed ten percent (10%) of the gross tax receipts during any fiscal year;
- (9) Storm Drainage. To require that all property owners provide adequate drainage facilities to the end that their premises be kept free of standing water and permit the natural flow of water thereon to be taken care of, and that in case of failure on the part of such owner or owners to provide the same, after due written notice, to go upon the premises and construct the necessary facilities and charge the costs thereof against said premises to be collected as in the case of taxes;
- (10) Automobiles. To control, regulate, or prohibit the licensing and operating of junk yards and auto wrecking companies in the City;
- (11) Ordinance Enforcement. To prescribe fines, forfeitures, and penalties for the breach of any ordinance enforcing the powers granted in this Charter or by general law and to provide for recovery of such fines and forfeitures and cost of enforcement of such penalties;

- (12) Ordinances to Maintain Peace and Welfare. To pass such ordinances as are expedient for maintaining peace, good government, and the welfare of the City and the morals and happiness of its citizens, and for the performance of all municipal functions;
- (13) General Duties and Powers. To do and perform all other duties and powers authorized by law; and those prescribed by general statute and those necessarily implied by law.

No liability shall accrue to the City or its officers, agencies, employees, or elected officials for the failure of said City or its officers, employees, agencies, or elected officials to perform any duty or exercise any powers above enumerated or hereafter set out in this Charter, the General Statutes, or the general laws of the State of North Carolina.

Except as otherwise provided in the Charter, or the general laws of North Carolina, the City Council shall have authority to determine by whom and in what manner the powers granted by this section shall be exercised.

"Section 1.12. **Exercise of Power.** All powers, functions, rights, privileges, and immunities of the City, its officers, agencies, employees, or elected officials shall be carried into execution as provided by this Charter or, if this Charter makes no provision, as provided by ordinance or resolution of the City Council, and as provided by the general laws of North Carolina pertaining to municipalities, and their officers, agencies, employees, and elected officials.

"Section 1.14. **Powers Granted by Charter not Exclusive.** The enumeration of particular powers, rights, privileges, franchises, and immunities by this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated or implied therein, or as appropriate to the exercise thereof, the City shall have and may exercise all other powers which under the Constitution and laws of North Carolina are now granted or may be granted in the future to municipalities. The powers herein granted are in addition to and not in substitution of existing powers, or powers hereafter granted to municipal corporations under the Constitution and laws of North Carolina. Except as limited or restricted or prohibited by the Constitution of North Carolina or this Charter, the City shall have and may exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.

"ARTICLE B. MUNICIPAL CORPORATE BOUNDARIES.

"Section 1.16. **Corporate Limits Defined.** The corporate limits of the City shall be those existing at the time of ratification of this restated Charter with such alterations as may be made from time to time in the manner provided by law.

"Section 1.18. **City Map.** The city engineer or such other appropriate and qualified person shall prepare a map of such boundaries to be entitled 'Map of Bessemer City Limits' and shall also prepare a written description of the corporate boundaries as shown on said map to be designated 'Description of Bessemer City Limits.' The city manager, if any, or Mayor shall at all times maintain said map and description in his office as the official map and description of the corporate boundaries of the City and shall be open to inspection by any person at any time during normal business hours; provided, however, that the City shall have authority to extend its corporate limits in any fashion as

provided for by the general laws of North Carolina. The city engineer or such other appropriate person shall indicate any alteration by making appropriate changes in or additions to said map and description. Photographic, typed or other copies of said official map or description, certified by the city clerk, shall be admitted in evidence in all courts and shall have the same force and effect as would the original map or description. When required from time to time, the City Council may provide for the redrawing of the official map or the rewriting of the official description. A redrawn map and a rewritten description shall supersede the earlier map and description which are replaced.

"ARTICLE C. CHARTER AMENDMENTS.

"Section 1.20. **City Attorney to Recommend Changes.** As soon as possible after the adjournment of each General Assembly, the city attorney shall present to the City Council copies of all local laws relating to the property, affairs, and government of the City that were enacted by such General Assembly, whether or not in terms amending this Charter, which he recommends to be incorporated into this Charter. Such recommendations may include suggestions for renumbering or rearranging the provisions of such laws, for providing titles and catch lines, and for such other changes in arrangement and form that do not change the law as may be thought necessary to implement the purposes of this section. After considering the recommendations of the city attorney, the City Council may provide for the incorporation of such laws into this Charter in order to maintain at all times a current and accurate Charter.

"CHAPTER II. MAYOR AND COUNCIL.

"ARTICLE A. COUNCIL: COMPOSITION, TERMS, QUALIFICATIONS, AND COMPENSATION.

"Section 2.10. **Composition of the City Council.** The membership of the City Council shall consist of a Mayor and six Council members who shall be elected in the manner provided in this Charter.

"Section 2.12. Terms, Qualifications, and Vacancies.

(a) The terms of office for all elected officials (i.e., Mayor and Council members) shall be for two years, beginning the day and hour of the organizational meeting of the Council, and shall continue until their successors are elected and qualified.

(b) No person shall be eligible to be elected to the City Council or to serve thereon unless he is a qualified voter and resident of the City. Any qualified elector of the City who has been a resident of the ward from which he is elected for at least 30 days prior to election shall be eligible to serve as a council member for such ward.

(c) If any person elected as a council member shall refuse to be qualified, or for any reason cannot be qualified, or if there is a vacancy occurring after his election and qualification as a result of death, resignation, removal of the place of residence of a council member from Bessemer City or the ward for which such council member was elected, conviction of or submission to a felonious charge, a declaration of lunacy, or for any other cause as decreed by a court of competent jurisdiction, or by operation of law, or if any such person becomes unable to discharge the duties of the office of council member, the Council shall choose some qualified person who has been a

resident of the ward in which the vacancy occurred for at least four months prior to the date of appointment to serve as council member in his place and stead for such unexpired term. Council members so selected shall have all authority and powers given by this Charter to regularly elected council members. Such council member shall be elected by a majority vote of the remaining members of the City Council in regular or special meeting. The City Council shall have authority to fill any vacancy resulting from a failure of candidates filing.

(d) If any person elected as Mayor shall refuse to be qualified, or for any reason cannot be qualified, or if there is a vacancy occurring after his election and qualification as a result of death, resignation, removal of residence from Bessemer City, conviction of or submission to a felonious charge, a declaration of lunacy, or for any other cause as decreed by a court of competent jurisdiction, or by operation of law, or if any such person becomes unable to discharge the duties of the office of Mayor, Council shall choose some qualified person residing in the City for such unexpired term to act as Mayor in his place and stead. A Mayor so selected shall have all authority and powers given by this Charter to a regularly elected Mayor. Such Mayor shall be elected by a majority vote of the remaining members of the City Council in regular or special meeting.

(e) No person elected to the City Council, whether he qualifies or not, shall, during the term for which he was elected, be appointed to or serve in any other position or office of trust or profit in the City government. However, when a vacancy exists or shall occur in the office of Mayor, a Council member shall not be barred from selection as Mayor for the unexpired term.

"Section 2.14. **Compensation and Reimbursement of Officials.** The City Council may fix the compensation of the Mayor and the Council members and any other elected officers of the City in such sums as may be just and reasonable. Any increase in the compensation of Mayor or Council member shall not take effect until after the next succeeding regular municipal election. The Mayor, Council members or other elected officers shall be entitled to reimbursement for actual expenses incurred in the course of performing their official duties at rates not in excess of those allowed to other City officers and employees.

"Section 2.16. **Rules of Business.** The City Council shall determine its own rules and order of business.

"ARTICLE B. ORGANIZATION AND PROCEDURES.

"Section 2.20. **Organizational Meeting.** On the first regular meeting date in December following the election in the immediately preceding November, the newly elected Mayor and Council members shall meet at its usual place for holding its meetings in Bessemer City, and the newly elected Mayor and Council members shall take their oath of office and assume the duties of their office. The council members shall choose from its members a Mayor Pro Tem, who shall hold office for a term of two years. The organization of the Council shall take place notwithstanding the absence, death, refusal to serve or nonelection of one or more members; provided, that at least four of the persons entitled to be members are present.

"Section 2.22. Regular and Special Meetings.

(a) Regular Meetings. Following the organizational meeting, the Council shall designate the time for its regular meetings by resolution or ordinance and shall convene for such regular meeting not less than once each month.

(b) Special Meetings. The Mayor, or in the absence of the Mayor, the Mayor Pro Tem, or a majority of the Council members at any time may call a special meeting of the City Council by causing written notice stating the time, place and purpose of the special meeting, to be delivered to each member or left at his dwelling and also at his place of business at least six hours before such special meeting. Only the business stated in the written notice may be transacted at a special meeting so called, except when the Mayor and all Council members are present and consent to the transaction of other business. Meetings of the Council may also be held at any time the Mayor and all Council members are present and consent thereto or when called or announced at a regularly scheduled meeting of the Council at which time all members of the Council are present.

(c) Attendance and Quorum. The Mayor and City Council members shall be expected to attend all Council meetings, both regular and special, and shall endeavor to attend at least seventy-five percent (75%) of such meetings. A majority of the City Council shall constitute a quorum. In determining whether a quorum is present, the Mayor shall be counted as a member of the City Council.

(d) All Meetings Public. Unless otherwise provided by law, all meetings shall be open to the public, and the Council shall sit with open doors at all of its legislative sessions.

(e) Minutes of Meeting to Be Kept. The City Council shall keep a journal of its proceedings which, except as to those matters exempted by law, shall be a public record. All minutes shall be maintained by the city clerk.

(f) Mayor to Preside. The Mayor, who shall be the official head of the City, shall preside at all meetings of the Council, if present. In the absence of the Mayor, the Mayor Pro Tem shall preside, and in the absence of both, a chairman pro tem shall be chosen to preside at such meeting.

(g) Voting.

(1) Mayor and council Obligated to Vote. Neither the Mayor nor any Council member shall be excused from voting except upon matters involving the consideration of his own official conduct, or involving matters in which he has a financial or prejudicial interest. An unexcused failure to vote by the Mayor or a Council member who is present shall be deemed an affirmative vote and shall be so recorded. A Council member who has withdrawn from a meeting without being excused shall be counted as present for the purpose of determining whether or not a quorum is present, and if a vote is taken during the absence of a Council member, his vote shall be deemed an affirmative vote as set forth above.

(2) Mayor and Mayor Pro Tem. The Mayor shall have no vote except in the case of a tie. In the absence of the Mayor, the Mayor Pro Tem, or the Chairman Pro Tem shall vote as herein provided for the Mayor.

- (3) Quorum. A majority of the members present shall be sufficient to pass any motion, resolution, or ordinance unless a greater vote is required by law or is set out herein.
- (4) Public Hearings. The Council may continue any public hearing without further advertisement. If a quorum is not present at the time fixed for such hearing, it shall automatically be continued to the next regular Council meeting.

"ARTICLE C. POWERS AND DUTIES.

"Section 2.30. Exercise of Powers.

(a) City Council. The City Council shall direct the exercise of all of the powers of the City, except as otherwise provided by this Charter. In addition to other powers conferred upon it by law, the City Council may adopt and provide for the execution of such ordinances, rules and regulations as may be necessary or appropriate for the preservation of the comfort, convenience, security, good order, better government or general welfare of the City and its inhabitants. The Council may enforce the same by imposing penalties for violations and may compel the performance of the duties imposed upon others by suitable penalties.

(b) Mayor. The Mayor shall be the official representative of the City and shall preside at all meetings of the City Council. The powers and duties of the Mayor shall be such as are conferred upon him by this Charter, by the General Statutes, and by general law, together with such others as may be conferred by the Council.

(c) Mayor Pro Tem. During the absence or disability of the Mayor, the functions of his office shall be maintained by the Mayor Pro Tem. The Mayor Pro Tem shall preside at all meetings of the Council in the absence of the Mayor, but shall only vote when so presiding as herein provided for the Mayor.

(d) Council to be Judge of Elections. The City Council shall be the judge of the elections and qualifications of its members and the Mayor, and in such cases shall have power to subpoena witnesses and compel the production of all pertinent books, records, and papers; but the decision of the City Council in any case shall be subject to review by a Court of competent jurisdiction.

"ARTICLE D. ORDINANCE PROCEDURES.

"Section 2.40. **Applicable General Law.** Except as otherwise herein provided, the adoption, amendment and repeal of ordinances shall be governed by provisions of general laws applying to municipalities.

"Section 2.42. **Effect of Ordinances on City Property.** Unless otherwise provided in the ordinance, all ordinances shall apply to property and rights-of-way belonging to the City and located outside the corporate limits.

"Section 2.44. **Code of Ordinances.** The Council shall adopt and issue a copy of its ordinances known as the 'Code of Ordinances of Bessemer City.' The code may be reproduced by printing, mimeographing, photoduplication, offset or similar process and may be issued as a securely bound book or books with periodic separately bound supplements or as a loose leaf book maintained by replacing pages.

"CHAPTER III. ADMINISTRATIVE OFFICES.

"ARTICLE A. ORGANIZATION OF CITY GOVERNMENT.

"Section 3.10. **Organization.** The Council may create, change, abolish and consolidate offices, positions, departments, boards, commissions, and agencies of the City government and generally organize and reorganize the City government in order to promote orderly and efficient administration of City affairs, except as may be otherwise provided by this Charter and by the applicable general laws of the State of North Carolina.

"ARTICLE B. CITY MANAGER.

"Section 3.20. **Appointment.** The City Council shall appoint a city manager to serve at its pleasure. He shall be appointed solely on the basis of his executive and administrative qualifications, and the city manager need not be a resident of the City at the time of his appointment but shall be required to become a resident of the city within six months following his appointment. The individual appointed city manager is eligible to serve in more than one appointive capacity but not as an elected official. He shall receive such compensation as the Council may fix.

"Section 3.22. **Powers.** The city manager shall be the chief administrator of the City. He shall be responsible to the Council for administering all municipal affairs placed in his charge and shall have the powers and duties set out in the applicable provisions of the General Statutes. However, the city manager shall not have any authority to hire or fire the city clerk, city attorney, or the police chief.

"Section 3.24. **Interim City Manager.** When the position of city manager is vacant, the Council shall designate a qualified person to exercise the powers and perform the duties of manager until the vacancy is filled.

"Section 3.26. **Qualified Candidates.** Any duly qualified person shall be eligible for the position of city manager other than the Mayor or members of the City Council.

"ARTICLE C. PERSONNEL.

"Section 3.30. Hiring, Compensation and Benefits.

(a) Pay and Allowances. The Council shall approve the schedule of pay, expense allowance, and other compensation of all City employees and may adopt position classification plans. The Council may purchase life insurance and health insurance for the benefit of all or any class of City employees as a part of their compensation, and may provide other fringe benefits for City employees.

(b) Ordinances and Regulations. The Council may adopt or provide for rules and regulations or ordinances concerning but not limited to annual leave, sick leave with full pay or with partial pay supplementing workers' compensation payments for employees injured in accidents arising out of and in the course of employment, hours of employment, holidays, working conditions, service award and incentive award programs, other personnel policies, and any other measures that promote the hiring and retention of capable, diligent and honest career employees.

"Section 3.32. **Defense of Employees and Officers.** Upon request made by or in behalf of any employee or officer, or former employee or officer, the Council, in its discretion, may provide for the defense of any civil or criminal action or proceeding brought against such employee or officer either in his official or in his individual capacity, or both, on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his employment or duty as

an employee or officer of the City. The defense may be provided by the City by its counsel, or by employing other counsel, or by purchasing insurance which requires that the insurer provide the defense.

"ARTICLE D. CITY CLERK.

"Section 3.42. **City Clerk.** The Council shall appoint a city clerk to serve at its pleasure. He shall give notice of meetings of the Council, keep a journal of the proceedings of the Council, be custodian of all City records entrusted to him, and shall perform any other duties that may be required by law, by the Council or by the city manager. In addition, the Council may appoint or provide for one or more deputy city clerks who shall have full authority to exercise and perform any of the powers and duties of the city clerk that it may specify.

"ARTICLE E. CITY ATTORNEY.

"Section 3.52. **City Attorney.** The Council may appoint a city attorney to serve at its pleasure, shall prescribe his duties and approve his rate of compensation. The Council may appoint or provide for one or more associates or assistant city attorneys who shall receive such compensation as may be fixed by the Council and shall have full authority to exercise and perform any of the powers and duties of the city attorney that may be specified by the Council or the city attorney.

"ARTICLE F. TAX COLLECTOR.

"Section 3.62. **Tax Collector.** The Council shall appoint a tax collector to collect taxes levied by the Council. The Council may in its discretion designate some official or employee of the City who has other duties to perform also the duties of tax collector. The Council shall fix the compensation of the tax collector and the tax collector shall serve at its pleasure. It shall be the duty of the tax collector to employ all lawful means to collect all taxes levied by the Council and to perform such other duties as are prescribed by law or as might be directed by the Council. The Council at its discretion may appoint one or more deputy tax collectors to serve at its pleasure and to receive such compensation as fixed by the Council. Deputy tax collectors shall have the authority to do and perform under the direction of the tax collector any act which the tax collector himself might perform unless the scope of authority of the deputy tax collector is specifically limited by the Council or by law.

"ARTICLE G. POLICE CHIEF.

"Section 3.72. **Police Chief.** The City Council may appoint a police chief to serve at its pleasure, shall prescribe his duties, and fix his compensation.

"ARTICLE H. MISCELLANEOUS.

"Section 3.80. **Official Bonds.** The officers, employees, and elected officials of the City, both elective and appointive, shall execute such official bonds in such amounts and upon such terms and conditions as the Council may from time to time require. The City may purchase and pay the premium for such bonds if it elects to do so.

"Section 3.82. **Reimbursement of City Officials.** The City Council is hereby authorized and empowered to reimburse any city official for expenses incurred while upon official business.

"Section 3.84. **Appointive City Officers.** The Council may appoint one person to fill any two or more positions listed in this Article.

"ARTICLE I. FINANCE AND FISCAL MATTERS.

"Section 3.90. **General Authority to Levy and Collect Taxes.** To raise revenue for defraying expenses and incident to the proper government of the City, the Council may, except as otherwise provided by law, levy and collect: (1) a tax on real and personal property and on all other property subject to taxation; (2) a tax on all trades, occupations, professions, businesses and franchises carried on within the City; and (3) any other taxes authorized by general law, by local act of the General Assembly or by a vote of the citizens of the municipality as provided by law. The power to impose the tax shall include the power to impose reasonable penalties for failure to declare tax liability, if required, or to impose penalties or interest for failure to pay taxes lawfully due within the time prescribed by law or ordinance. The power to impose the tax shall also include the power to provide for its administration in the manner not inconsistent with the statute authorizing the tax.

"Section 3.92. **Fiscal Year; Adoption of Annual Budget.** The fiscal year of the City shall be from July 1 through June 30. During such fiscal year, the City shall operate under an annual balanced budget which shall be adopted and administered in accordance with Chapter 159, Article 3 of the General Statutes. The City shall be required to adopt a financial budget by September 1 of each year for the next year.

"Section 3.94. **Inspection of Records.** All records and accounts in every office and department of the City shall be open for inspection by any citizen or representative of the press at all reasonable times and under reasonable regulations established by the City Council, except records or documents the exposure of which would tend to defeat the lawful purpose which they are intended to accomplish or otherwise made confidential by law.

"ARTICLE J. PROCUREMENT AND PROPERTY MANAGEMENT.

"Section 3.102. **Contracting, Purchasing, Bidding, and Property Management Procedures.** All contracts, except as otherwise provided for in this Charter, or by law, shall be authorized and approved by the Council and reduced to writing in order to be binding upon the City.

Before making any purchase of contract supplies, materials, equipment or contractual services, opportunity shall be given for competition, under such rules and regulations and with such exceptions as the City Council may prescribe by ordinance. Unless otherwise limited by ordinance, all expenses for supplies, materials, equipment or contractual services involving sums greater than the limits imposed by the General Statutes shall be made on a written contract, and such contract shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by ordinances and in accordance with applicable provisions of the General Statutes.

Before beginning any City improvement costing more than the maximum sum permitted by the General Statutes, an opportunity shall be given for competition, under such rules and regulations and with such exceptions as the City Council may prescribe by ordinance. Unless otherwise limited by ordinance, all city improvements costing more than the maximum limits imposed by the General Statutes shall be executed by written contract except where such improvement is authorized by the City Council to be executed directly by a city department in conformity with detailed plans, specifications,

and estimates. All such contracts shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by ordinances and in accordance with G.S. 143-129 provided the City Council shall have the power to reject any or all bids and exercise its discretion in the selection of a bid.

"Section 3.104. **Sale and Disposition of Property.** The City by private sale, sale on sealed bids, or public auction may in accordance with applicable provisions of the General Statutes upon such terms and conditions as it deems wise exchange, enter into agreements regarding the joint use of, lease or sale of any interest in real or personal property which it may legally own.

"Section 3.106. **Easements.** The City shall have authority without complying with the provisions of this Article to grant easements over, through, under, or across any city property or the right-of-way of any public street or alley that is not a part of the State highway system. Easements in a street or alley right-of-way shall not be granted if the easement would substantially impair or hinder the use of the street or alley as a way of passage.

"Section 3.108. **Conflict of Interest.** Any officer, department head, employee, or member of the Council who has financial interest, direct or indirect, in any proposed contract with the City or in any proposed sale of any land, materials, supplies, or services to the City or to a contractor supplying the City shall make known that interest and shall refrain from voting upon or otherwise participating in the making of such contract or sale. Any officer, department head, employee, or member of the Council who willfully violates the requirements of this section shall be guilty of malfeasance in office or position. A violation of this section with the knowledge expressed or implied of the person or corporation contracting with or making a sale to the City shall render the contract void.

"ARTICLE K. AUDITS.

"Section 3.120. **Audits.** The City Council shall order an independent audit made of all accounts of the city government by a certified public accountant selected by the City Council and said accountant shall have no personal interest directly or indirectly in the financial affairs of the city government or its officers. This audit shall be made annually at the end of the fiscal year. The City Council shall have the authority to order an independent audit at any other time they should so desire. The annual audit herein provided for shall be made available for public inspection at the office of the City Clerk.

"CHAPTER IV. REGULATORY AND PLANNING FUNCTIONS.

"ARTICLE A. ADMINISTRATION OF JUSTICE.

"Section 4.10. **Administration of Justice.** The Council may offer and pay rewards for the conviction of any person or persons alleged to have committed criminal offenses which, in the judgment of the Council, involve serious danger to the public peace or public safety. The Council shall fix the terms, conditions, and amounts of such rewards. The rewards shall be paid only by order of the Council from nontax revenues in the general fund of the City; and the Council shall, in its discretion, determine who shall be entitled to the collection of any reward. In addition, the Council may allocate funds from nontax revenues in the general fund of the City for payment of informant's fees concerning such criminal offenses.

"ARTICLE B. PLANNING, ZONING, BUILDING REGULATIONS,
AND RELATED MEASURES.

"Section 4.20. **Authority.**

(a) Authority Granted.

For the purpose of promoting the orderly growth, expansion, and development of the City and the surrounding one mile area, the Council is hereby authorized to exercise any planning, zoning, subdivision and building regulation powers (including plumbing, heating, cooling, or electrical regulation powers) now or hereafter conferred upon the City and vested in the Council by this Charter, the General Statutes, or any other law applicable to the City.

(b) City May Contract for Services.

The City Council may contract with another governmental unit, agency or department for the performance of the services authorized pursuant to this Article as allowed by statute.

(c) Enforcement.

In order to enforce properly the provisions of any planning, zoning, or subdivision ordinance or building regulation the Council shall require by ordinance that prior to the beginning of any construction, reconstruction or alteration of any building or structure or for plumbing, heating, cooling or electrical installations within said area a permit or permits be obtained therefor from the inspections superintendent of the City.

(d) Powers Granted Not Exclusive.

The powers herein granted to the City are intended to be supplementary to any powers now or hereafter conferred upon it.

"Section 4.22. **Public Hearings on Zoning Changes.** Before adopting or amending any zoning regulations, restrictions, or boundaries, the Council after first referring the matter to the Bessemer City Planning and Zoning commission (commonly referred to as the 'Planning Board') for its recommendation shall hold a public hearing in accordance with the applicable ordinance.

"ARTICLE C. UTILITY REGULATIONS.

"Section 4.30. Operation of Water, Sewer, and Gas Systems and Other Utilities.

(a) Authority Granted.

Subject to the General Statutes, Federal Law and Regulations, and applicable general law, the City Council may:

- (1) Provide for the construction or acquisition and operation of utilities and utility systems;
- (2) Acquire any real or personal property necessary or incidental thereto, including equipment, machinery, and all manner of rights or interests in or relating to land and water, and appurtenances thereto;
- (3) Establish rates of charge for utility services and the use of utility facilities;
- (4) Adopt rules and regulations concerning the management of utilities and utility systems, with regard to such matters as maintenance, operation and improvement thereof, or require the pretreatment of waste; and

(5) Adopt rules and regulations concerning charges for utility services.

(b) Definition of the Term 'Utility'.

As used in this Charter, unless the context otherwise requires, the term 'utility' includes water supply, water distribution, sewerage, waste disposal, electric power, natural or manufactured gas, and public transportation.

"Section 4.32. **Connection by Abutting Property Owners.** The Council may require that within 30 days after a water main or sewer line is completed and made ready for use, the owner of every abutting lot whereon such utility is supplied for any human use shall cause the lot to be connected thereto.

"Section 4.34. **Utility Charges.** In the event any charge for utility service or for the use of utility facilities is not paid within 10 days after it becomes due, the same shall be delinquent and if authorized by the General Statutes become a lien upon such real property served or in connection with which the service or facility is used or upon all personal property situated upon such real property for both. The charge may at any time after becoming delinquent be collected either by suit or by the City tax collector.

"Section 4.36. **Deposits.** A deposit by an owner or tenant of the premises to be served by a utility service or the use of utility facilities may be levied as per adopted ordinances and regulations of the City and held by the City for the duration of the service without interest. If a utility charge is not paid in a timely manner, the same may be deducted from the deposit and utility service may be cut off and not be turned on again until the balance of the deposit is increased to the original amount. An owner or tenant of property being serviced should give notice that the property is going to be vacated, in order to receive a refund of the deposit amount remaining subject to offset for charges due. In the event the owner or tenant shall vacate the premises without notifying the City and having utility cut off, the owner or tenant shall be liable to the City for any utility charges which accrue after the owner or tenant vacated the premises and shall forfeit to the City any balance of such deposit remaining after the utility service charge due has been deducted.

"Section 4.38. **Water and Sewer Connection.** Before any person, firm, or corporation shall connect in any manner, except a sewer or water lateral from the meter to the premises, any privately owned water or sewer line or lines with any water or sewer line or lines of the City, such person, firm or corporation shall, by proper instrument, in consideration of making such connection and the benefits to be derived therefrom, dedicate, give, grant, and convey such water or sewer line or lines to the City whether such connection and line or lines be within or without the City limits. No connection to any water or sewer line or lines or any other local public utility shall be made without the express approval of the City, nor shall such connection be effected except by the forces or employees of the City, for which a reasonable charge may be made. Should any person, firm, or corporation connect any privately owned water or sewer line or lines with any city water or sewer line or lines without first dedicating, giving, granting, and conveying same to the City, the act of connecting such water or sewer line or lines to the water or sewer line or lines for the City shall be conclusively deemed and held to be a dedication, gift, grant, and conveyance of such water or sewer line or lines to the City; provided, that the City may enter into contracts, with any

person, firm or corporation whereby sewer or water lines may be laid within or without the City limits and connected to the systems of the City under such terms as may be agreed upon, notwithstanding any provisions of this section.

"Section 4.40. **Natural Gas.** The City shall be authorized to purchase such quantities of natural or manufactured gas as necessary to effectively service the utility needs of the City and its inhabitants and obtain the most reasonable price from the provider. Such purchases by the City may be made through informal filing and bidding procedures and do not require the approval of the City Council if in excess of \$10,000.

"Section 4.42. **Public Utility Franchises.** The Council may grant franchises for any public utility or cablevision company in the manner provided by law, and, in its discretion, may hold a referendum at the expenses of the applicant on the question of granting a franchise.

"ARTICLE D. VEHICLES AND TRAFFIC.

"Section 4.50. Council to Adopt Regulations.

(a) Authority to Adopt Traffic Ordinances.

The Council may adopt ordinances regulating the speeds of vehicles upon any City streets and may establish truck routes (or other required routes for limited classes of vehicles or traffic) applicable to any City street. As used in this section, the term 'City streets' includes all public highways, roads and streets within the City limits, including numbered State highways, and highways, roads and streets maintained, repaired, constructed, reconstructed or widened in whole or in part with State funds.

(b) State Numbered Highways.

An ordinance concerning vehicle speeds, truck routes, or other required routes that applies to numbered State highways shall be subject to approval by the North Carolina State Highway Commission.

"ARTICLE E. ROADS AND STREETS.

"Section 4.60. **General Authority.** The Council shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage as provided in the General Statutes.

"Section 4.62. **Power to Classify Streets and Establish Building Setback Lines.** The Council not only within the corporate limits of the City but also within the territory beyond the corporate limits as now or hereafter fixed for a distance of one mile in all directions may:

- (1) Classify all or a portion of any existing or proposed street according to its size, present and anticipated traffic load and other characteristics relevant to the achievement of the purposes of this Article; and
- (2) Establish by ordinance minimum distances that buildings constructed along each class or type of street shall be set back from the right-of-way line or the center line of the street. The Council may classify portions of any street in a manner different from other portions of the same street where the characteristics of the portions differ.

"Section 4.64. **Enforcement.** Any setback line ordinance may provide for enforcement through the issuance of building permits and may be coordinated with the enforcement of the building code, the zoning ordinance and the subdivision ordinance.

"ARTICLE F. IMPROVEMENTS AND SPECIAL ASSESSMENTS.

"Section 4.70. **Local Improvements.** The City has all the power and authority granted to municipalities by the general laws of the State with respect to local improvements, such as, but not limited to, grading, regrading, widening, paving and repaving of public streets and alleys; constructing, reconstructing and altering of sidewalks, curbs, gutters and storm drains in the public streets and alleys; and laying or relaying sanitary sewer and water lines. The authority granted by this Article is in addition to that granted by any other law and with respect to any particular local improvement, the City may exercise any one or more of the alternative powers available to it.

"Section 4.72. **Special Assessments.** In making special assessments, the City may employ the following procedures:

- (1) **Petition.** Upon receipt of a petition from one or more owners of abutting property which fifty percent (50%) or more of the total street frontage is in one ownership, the Council may order the making of any local improvement. The Council may assess the cost thereof against the abutting property in the same manner and following the same procedures set out in the general laws of the State for making special assessments against property benefited by local improvements.
- (2) **Limited Assessment Permitted.** The Council may order the making of any local improvement and assess the cost thereof, except the City's portion, if any, against only a limited number of abutting properties if the owners of those properties submit a petition asking that the improvement be made and that the total amount to be assessed for the improvement be assessed only against their properties.
- (3) **Assessment by Council without Petition.** If, in the Council's judgment, which shall be conclusive, the abutting property to be assessed will be benefited in an amount at least equal to the assessment, no petition for local improvements shall be necessary and the Council may order the making of any such local improvement and assess the cost thereof against abutting properties in the following cases:
 - a. **Streets.**
 1. When any street or part of a street is unsafe; or
 2. The improvement of a street or part of a street not more than 1,500 linear feet in length is necessary to connect a street already paved; or the improvement of a street or part of a street is necessary to connect a paved street, or portion thereof, with a paved highway; or the improvement of a street or part of a street is necessary to provide a paved approach to a railroad, street grade, separation, or bridge; or the widening of any street or part of a street is necessary to accommodate present and anticipated volumes of traffic;

- b. Storm Drains. When any street or part of a street, or any property, is without storm sewer or other surface drainage improvements, and storm sewer or other surface drainage should be provided in the public interest;
 - c. Sidewalks. When any street or part of a street is without sidewalks and sidewalks should be provided in the public interest;
 - d. Water and Sewer. When any property is without water and sewer lines and water and sewer lines should be provided in the public interest.
- (4) Repair of Sidewalks and Driveways. If the Council determines that the public interest requires repair of a sidewalk or portion of a driveway within the public right-of-way, the Council may order the making of the repair and assess the total cost against the property abutting the sidewalk or driveway repaired. Before an assessment may be made for the repair, at least 30 days written notice shall be given to the abutting property owner personally or by registered or certified mail to his last known address or his address as shown on the tax records. The notice shall state that he is required to make the repair at his own expense in conformity with the sidewalk standards adopted by the City, and that if he shall fail to make the repair thereupon the City may make the repair and assess the cost. If the Council finds that any sidewalk or driveway is in need of immediate repair, the Council may adopt a resolution setting out its finding and directing that the repair be made immediately and that the cost be assessed against the abutting property without prior notice to the property owner affected.

"Section 4.74. **Planting Strip and Driveway Maintenance.** It is the responsibility of the abutting property owner to maintain any property, driveway, steps or walkway servicing the premises between the property line and the curb of a paved street including any property located between a sidewalk and the abutting street. The City Council may exercise any reasonable amount of enforcement necessary to maintain such areas at the expense of the property owner should it be necessary.

"ARTICLE G. ANNEXATION.

"Section 4.76. **Annexation.** The City Council shall have the authority to exercise all powers of annexation as provided in the General Statutes.

"CHAPTER V. ELECTIONS.

"Section 5.10. **Regular and Special Elections. Time.** For the purpose of electing a Mayor, the several Council members and all other elective officers of the City, there shall be held in the City, on the Tuesday following the first Monday in November, and biennially thereafter on the odd-numbered years beginning in 1973, a regular municipal election as provided in the General Statutes. The City Council may, by resolution and in accordance with the General Statutes and applicable law, order a special election, fix the time for holding the same, and provide all means for holding such special election, including rules and regulations governing registration of voters.

"Section 5.12. **Form of Voting.** The qualified voters of the City, voting at large, shall elect one council member from each of the six wards. Each voter in the City shall be entitled to vote for one candidate from each ward, and the candidate from each ward who receives the largest number of votes cast for council members from his ward shall be declared elected.

"Section 5.14. **Wards.** For the purpose of electing council members, the City shall be divided into six geographical subdivisions to be known as wards as established by ordinance duly adopted by the Council after hearing. The current wards are described as follows:

Ward 1: Beginning at the intersection of Virginia Avenue and 12th Street and running westerly along said avenue to Skyland Avenue; thence continuing westerly a straight line to where the northerly line of the city limits is intersected by Highway No. 1403 commonly known as Ramseur Road; thence easterly along the northerly city limits line to Highway No. 1448; thence southerly along said Highway and 12th Street to the beginning.

Ward 2: Beginning at the intersection of Mickley Avenue and the southerly line of the city limits and running westerly along said city limits line to the southwest corner of the city limits line; thence easterly along the city limits line to where it is intersected by Highway 1403; thence easterly a straight line to the westerly end of Virginia Avenue in the Mountain Road; thence southerly along the Mountain Road to Mickley Avenue; thence southerly along Mickley Avenue to the beginning.

Ward 3: Beginning at the intersection of Virginia Avenue and 12th Street and running southerly along 12th Street to the southerly city limits line; thence westerly along the city limits line to Mickley Avenue; thence northerly along Mickley Avenue to the Mountain Road; thence northerly along the Mountain Road to the westerly end of Virginia Avenue; thence easterly along Virginia Avenue to the beginning.

Ward 4: Beginning at the intersection of Virginia Avenue and 12th Street and running easterly along Virginia Avenue to 8th Street; thence southerly along 8th Street to the southerly city limits line; thence westerly along the city limits line to 12th Street; thence northerly along 12th Street to the beginning.

Ward 5: Beginning where the southerly city limits line is intersected by 8th Street and running northerly along 8th Street to the northerly end of the street and continuing northerly a straight line to the northerly city limits line; thence easterly along the city limits line to the northeasterly corner of the city limits line; thence westerly along the southerly city limits line to the beginning.

Ward 6: Beginning at the intersection of 8th Street and Virginia Avenue and running westerly along Virginia Avenue to 12th Street; thence northerly along 12th Street and highway No. 1448 to the northerly city limits line; thence along the old and new city limits line to a point in the city limits line northeasterly from the northerly end of 8th Street; thence a straight line along 8th Street in a southerly direction to the beginning.

"Section 5.16. **Polling Places and Ballots.** The City Council shall establish one or more polling places for the City. There shall be one ballot prepared for each local election. The full names of all candidates for Mayor and all candidates for the City

Council shall be printed on the official ballots in the alphabetical order of the surnames in rotation without party designation.

"Section 5.18. **Absentee Voting.** In any City election, including a primary or general election or referendum, conducted by the county board of elections, absentee voting shall be permitted. Absentee voting shall not be permitted in any City election which is not conducted by the county board of elections. The appropriate provisions of the General Statutes shall apply to absentee voting with the exception that the earliest date by which absentee ballots shall be available to voters is 30 days prior to the date of the municipal primary or election or as quickly following the filing deadline specified in the General Statutes as the county board of elections is able to secure the official ballots.

"Section 5.22. **Statutes Governing City Elections.** City elections shall be conducted as far as possible in all things and in all details, other than as provided in this Charter, in accordance with the general election laws pertaining to municipal elections and particularly in accord with the appropriate provisions of the North Carolina General Statutes. However, where the General Statutes herein referred to are in conflict with any provision in this Charter, then said provision of this Charter shall supersede the general laws of North Carolina.

"Section 5.26. **Contract Services.** The City Council shall have the authority to contract with any governmental unit, agency or department for performing the services described in this Chapter as permitted by the General Statutes.

"CHAPTER VI. MISCELLANEOUS.

"ARTICLE A. CLAIMS AGAINST THE CITY.

"Section 6.10. **Claims.** No formal legal action shall be instituted or maintained against the City upon any claim or demand whatsoever of any kind or character unless the claimant shall have first presented in writing his claim or demand to the Council or to the city manager and said Council or city manager shall have declined to pay or settle the same as presented. Nothing contained herein shall be construed to interfere with the running of any statute of limitations.

"ARTICLE B. CLAIMS BY THE CITY.

"Section 6.12. **Claims.** The city manager is hereby authorized to execute releases of persons, firms, and corporations because of damages to personal property belonging to the City, when the full amount of damages to such property is ascertained and a statement thereof has been furnished to the city manager by the city attorney and the amount of such release does not exceed five thousand dollars (\$5,000).

"ARTICLE C. INSURANCE.

"Section 6.14. **Insurance.** The City may contract to insure itself and any of its officers, agents, employees and elected officials against liability for wrongful death or negligent or intentional damage to person or property, and against absolute liability for damage to person or property, caused by an act or omission of the City or any of its officers, agents, employees, or elected officials when acting within the scope of their authority or the course of their employment. The Council shall determine what liabilities and what officers, agents, employees, and elected officials shall be covered by any insurance purchased pursuant to this Article.

"ARTICLE D. CONTINUANCE OF CONTRACTS IN EFFECT PRIOR

TO CHARTER.

"Section 6.16. **Contracts.** All contracts entered into by the City, or for its benefit, prior to the effective date of the restated Charter shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or the Charter provision existing at the time of the effective date of this Charter may be carried to completion in accordance with the provision of such existing law and Charter provision.

"ARTICLE E. CONTINUANCE OF ORDINANCES IN EFFECT PRIOR TO CHARTER.

"Section 6.18. **Ordinances.** All ordinances of the City not inconsistent with the provision of this restated Charter shall remain in full force and effect until altered, amended or repealed by the City Council.

"ARTICLE F. CONTINUANCE AND RATIFICATION OF ACTION TAKEN PRIOR TO CHARTER.

"Section 6.20. **Prior Action.** All actions of the City, its various Council members both past and present, its Mayors both past and present, and its city managers both past and present, prior to the effective date of the restated Charter shall continue in full force and effect and are hereby validated, approved, ratified, and confirmed regardless of whether such actions were within or outside the scope of the Charter or general law then in effect. Said validation and approval shall include but not be limited to any and all alley closings which were completed or contemplated prior to the effective date of this restated Charter.

"ARTICLE G. REPEAL OF LAWS IN CONFLICT WITH CHARTER.

"Section 6.22. **Repeal.** All laws and clauses of laws in conflict with this Charter are hereby repealed and specifically any provision, Charter, or amendment thereto to the City in conflict are specifically repealed. The following acts are specifically repealed: Chapter 828, Session Laws of 1967, and Chapter 22, Session Laws of 1971. No such repeal shall affect any act done or any right accruing or accrued or established or any suit had or commenced in any case before the time when such appeal shall take effect; provided, that no law heretofore repealed shall be revived by the repeal or any act repealing such law; provided, that all persons who at the time that said repeal shall take effect shall hold any office under any of the acts hereby repealed shall continue to hold the same according to the tenure thereof, except those as to which a different provision shall have been made to this Charter.

"ARTICLE H. SEVERABILITY CLAUSE.

"Section 6.24. **Severability.** Should any provision of this Charter be declared invalid or unconstitutional by any court of competent jurisdiction, that declaration shall not affect the validity of any part, clause, phrase, section, subsection, or sentence of this Charter not specifically declared to be invalid or unconstitutional.

"ARTICLE I. APPLICABILITY OF CHARTER.

"Section 6.26. **Applicability.** This Charter shall apply only to the City of Bessemer City, Gaston County, North Carolina and the geographic territory described in Chapter I, Article B hereof and includes the one-mile territory immediately surrounding the corporate boundaries.

"ARTICLE J. STRUCTURE AND LANGUAGE.

"Section 6.28. **Headings.** The headings used in this Charter are provided for convenience only and should not be construed as binding on the terms of the provisions contained herein.

"Section 6.30. **Gender.** For purposes of this Charter, the terms 'he', 'him', and 'his' are intended in the generic sense and shall be deemed to include both the female and male gender.

"ARTICLE K. STATUTORY REFERENCES.

"Section 6.32. **References.** Reference to a section or other subdivision of the General Statutes of the State of North Carolina shall be deemed to refer to such section or subdivision as amended or to any other section or subdivision to which the same has been transferred or by which the same has been superseded. Whenever any section of this Charter refers to or cites a section of the General Statutes and that section is later amended or superseded, the Charter provision shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section. The reference 'G.S.' shall be construed to refer to the General Statutes of North Carolina. Whenever a Code provision contains the language 'as provided in G.S. ___', any further explanation of the cited General Statute is only a summary of its content and it is included for information purposes only, and any violation of the cited General Statute will be enforced as specifically provided therein."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 26th day of July, 1990.