

SENATE BILL 114¹: CITY OF BUCKHEAD CITY; INCORPORATE

First signature: Senator Randy Robertson (29th)

Co-Sponsors: Senator Brandon Beach (21st), Senator Greg Dolezal (27th), Senator Matt Brass (28th), Senator Lee Anderson (24th), Senator Marty Harbin (16th), Senator Billy Hickman (4th), Senator Colton Moore (53rd), Senator Carden Summers (13th)

Summary: “A BILL to be entitled an Act to incorporate the City of Buckhead City; to provide a charter; to provide for boundaries and powers of the city; to provide for a governing authority of such city and the powers, duties, authority, election, terms, vacancies, compensation, expenses, qualifications, prohibitions, conflicts of interest, and suspension and removal from office relative to members of such governing authority; to provide for inquiries and investigations; to provide for oaths, organization, meetings, quorum, voting, rules, and procedures; to provide for ordinances and codes; to provide for a mayor, mayor pro tempore, and city manager and certain duties, powers, and other matters relative thereto; to provide for administrative affairs and responsibilities; to provide for boards, commissions, and authorities; to provide for a city attorney, a city clerk, and other personnel and matters relating thereto; to provide for rules and regulations; to provide for a municipal court and the judge or judges thereof and other matters relative to those judges; to provide for the court's jurisdiction, powers, practices, and procedures; to provide for the right of certiorari; to provide for elections; to provide for taxation, licenses, and fees; to provide for a millage rate cap; to provide for taxation on behalf of the Atlanta Independent School System; to provide for franchises, service charges, and assessments; to provide for bonded and other indebtedness; to provide for auditing, accounting, budgeting, and appropriations; to provide for city contracts and purchasing; to provide for the conveyance of property and interests therein; to provide for bonds for officials; to provide for prior ordinances and rules, pending matters, and existing personnel; to provide for penalties; to provide for definitions and construction; to provide for other matters relative to the foregoing; to provide for a referendum; to provide contingent effective dates, automatic repeal, and transitional provisions governing the transfer of various functions and responsibilities from the City of Atlanta to the City of Buckhead City; to provide for the transfer and

¹ S.B. 114, 157th Gen. Assemb., 1st Reg. Sess. (Ga. 2023), *available at* <https://www.legis.ga.gov/api/legislation/document/20232024/216117> (last visited Sept. 29, 2023).

assumption of bonded obligations; to provide for the continuation of lease purchase and intergovernmental agreements; to provide for severability; to provide for effective dates; to repeal conflicting laws; and for other purposes.”²

Status: Senate Lost on March 2, 2023.³

TEXT OF SENATE BILL 114 (COMMITTEE SUBSTITUTE LC 47 2223 ERS)⁴

ARTICLE I. INCORPORATION AND POWERS

SECTION 1.10.

Name.

This Act shall constitute the charter of the City of Buckhead City. The city and the inhabitants thereof are constituted and declared a body politic and corporate under the name and style “City of Buckhead City, Georgia,” and by that name shall have perpetual succession.

SECTION 1.11.

Corporate boundaries.

(a) The boundaries of this city shall be those set forth and described in Appendix A of this charter, and said Appendix A is incorporated into and made a part of this charter. The boundaries of this city at all times shall be shown on a map, a written description, or any combination thereof, to be retained permanently in the office of the city clerk and to be designated, as the case may be: "Official Map (or Description) of the corporate limits of the City of Buckhead City, Georgia." Photographic, typed, or other copies of such map or description certified by the city clerk shall be admitted as

² 2022-2023 Regular Session-S.B. 114, *City of Buckhead City; Incorporate*, GA. GEN. ASSEMB., <https://www.legis.ga.gov/legislation/64118> (last visited Sept. 29, 2023) [hereinafter S.B. 114 Status Sheet].

³ *Id.*

⁴ S.B. 114, *supra* note 1.

evidence in all courts and shall have the same force and effect as with the original map or description.

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

SECTION 1.12.

Powers and construction.

(a) Except as provided in subsection (b) of this section, this city shall have the following powers:

(1) Animal regulations. To regulate and license or to prohibit the keeping or running at large of animals and fowl and to provide for the impoundment of same if in violation of any ordinance or lawful order; to provide for the disposition by sale, gift, or humane destruction of animals and fowl when not redeemed as provided by ordinance; and to provide punishment for violation of ordinances enacted under this charter;

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

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

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

(5) Emergencies. To establish procedures for determining and proclaiming that an emergency situation exists within or outside the city and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health, or well-being of the citizens of the city;

(6) Environmental protection. To protect and preserve the natural resources, environment, and vital areas of the state through the preservation and

improvement of air quality, the restoration and maintenance of water resources, the control of erosion and sedimentation, the management of solid and hazardous waste, and other necessary actions for the protection of the environment;

(7) Fire regulations. To fix and establish fire limits and from time to time to extend, enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with general law, relating to both fire prevention and detection and to fire fighting; and to prescribe penalties and punishment for violations thereof;

(8) General health, safety, and welfare. To define, regulate, and prohibit any act, practice, conduct, or use of property which is detrimental to health, sanitation, cleanliness, welfare, and safety of the inhabitants of the city and to provide for the enforcement of such standards;

(9) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for any purpose related to powers and duties of the city and the general welfare of its citizens, on such terms and conditions as the donor or grantor may impose;

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

(11) Jail sentences. To provide that persons given jail sentences in the municipal court may work out such sentences in any public works or on the streets, roads, drains, and other public property in the city; to provide for commitment of such persons to any jail; or to provide for commitment of such persons to any county work camp or county jail by agreement with the appropriate county officials;

(12) Municipal agencies and delegation of power. To create, alter, or abolish departments, boards, offices, commissions, and agencies of the city and to confer upon such agencies the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same;

(13) Municipal debts. To appropriate and borrow money for the payment of debts of the city and to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized by this charter or the laws of the State of Georgia;

(14) Municipal property ownership. To acquire, dispose of, lease, and hold in trust or otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or outside the property limits of the city;

- (15) Municipal property protection. To provide for the preservation and protection of property and equipment of the city and the administration and use of same by the public; and to prescribe penalties and punishment for violations thereof;
- (16) Nuisance. To define a nuisance and provide for its abatement whether on public or private property;
- (17) Penalties. To provide penalties for violation of any ordinances adopted pursuant to the authority of this charter and the laws of the State of Georgia
- (18) Planning and zoning. To provide comprehensive city planning for development by zoning; and to provide subdivision regulation and the like as the city council deems necessary and reasonable to ensure a safe, healthy, and esthetically pleasing community
- (19) Public hazards; removal. To provide for the destruction and removal of any building or other structure which is or may become dangerous or detrimental to the public
- (20) Public improvements. To provide for the acquisition, construction, building, operation, and maintenance of parks and playgrounds, public grounds, recreational facilities, public buildings, and charitable, cultural, educational, recreational, conservation, and sport institutions, agencies, and facilities; and to regulate the use of public improvements
- (21) Public utilities and services. To grant franchises or make contracts for or impose taxes on public utilities and public service companies and to prescribe the rates, fares, regulations, and standards and conditions of service applicable to the service to be provided by the franchise grantee or contractor, insofar as not in conflict with valid regulations of the Georgia Public Service Commission;
- (22) Regulation of roadside areas. To prohibit or regulate and control the erection, removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any and all other structures or obstructions upon or adjacent to the rights of way of streets and roads or within view thereof, within or abutting the corporate limits of the city; and to prescribe penalties and punishment for violation of such ordinances;
- (23) Retirement. To provide and maintain a retirement plan for officers and employees of the city;
- (24) Roadways. To grant franchises and rights of way throughout the streets and roads and over the bridges and viaducts for the use of public utilities; and

to require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands and to impose penalties for failure to do so;

(25) Special areas of public regulation. To regulate or prohibit junk dealers, pawn shops, the manufacture, sale, or transportation of any intoxicating liquors, alcoholic beverages, and the use of firearms; to regulate the transportation, storage, and use of combustible, explosive, and inflammable materials, the use of lighting and heating equipment, and any other business or situation which may be dangerous to persons or property; to regulate and control the conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows of any kind, by taxation or otherwise; and to license, tax, regulate, or prohibit professional fortunetelling, palmistry, adult bookstores, and massage parlors;

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

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

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

(29) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the number of such vehicles; to require the operators thereof to be licensed; to require public liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to regulate the parking of such vehicles; and

(30) Other powers. To exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the city and its inhabitants; to exercise all implied powers necessary or desirable to carry into execution all powers granted in this charter as fully and completely as if such powers were fully stated herein; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia; and any listing of particular powers in this charter shall not be held to be exclusive of others or restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

(b) All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or employees shall be carried into execution as provided by this charter. If this charter makes no provision, such shall be carried into execution as provided by ordinance or as provided by pertinent laws of the State of Georgia.

**ARTICLE II.
GOVERNMENT STRUCTURE**

SECTION 2.10.

City council creation; number; election.

(a) The legislative authority of the government of this city, except as otherwise specifically provided in this charter, shall be vested in a city council of which the mayor shall be a voting member.

(b)(1) The city council of the City of Buckhead City shall consist of six members, plus the mayor.

(2) For the purposes of electing members of the city council, the City of Buckhead City shall be divided into six council districts, designated Council Districts 1 through 6. Council Districts 1, 2, 3, 4, 5, and 6 shall be and correspond to those six numbered districts described in Appendix B attached to and made a part of this Act and further identified as "User: SD053 Plan Name: BuckheadCity-Districts-2022 Plan Type: Local".

(3)(A) For the purposes of such plan:

(i) The term "VTD" 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 2020 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 as provided in the report of the Bureau of the Census for the United States decennial census of 2020 for the State of Georgia; and

(ii) 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 2020 for the State of Georgia.

(B) Any part of the City of Buckhead City which is not included in any district described in paragraph (2) of this subsection shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2020 for the State of Georgia.

(C) Any part of City of Buckhead City which is described in paragraph (2) of this subsection as being 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 that district contiguous to such part which contains the least population according to the United States decennial census of 2020 for the State of Georgia.

(D) Any part of the City of Buckhead City which is described in paragraph (2) of this subsection as being included in a particular district which, on the effective date of this Act, is within the corporate boundaries of another municipality shall not be included within such district.

(E) Any part of the City of Buckhead City which is described in paragraph (2) of this subsection as being included in a particular district which is not within the corporate boundaries of the City of Buckhead City shall not be included within such district.

(4) Following each decennial census, the city council shall revise such districts pursuant to Code Section 36-35-4.1 of the O.C.G.A. to maintain a proper population balance among such districts.

(5) One councilmember shall be elected from each of the six council districts. Each person desiring to offer as a candidate for councilmember shall designate the council district for which he or she is offering. Councilmembers shall be elected by a majority vote of the qualified electors of the respective council districts voting at the elections of the city. In the event that no candidate for a council district obtains a majority vote of the qualified electors of the council district voting in the election, a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election for such council district shall be included in the run-off election. The person receiving the highest number of votes of the qualified electors of the council district voting at such run-off election shall be elected. Each candidate for election to the city council shall reside in the district he or she seeks to represent.

(c) With the exception of the initial terms set forth in subsection (d) of this section, councilmembers shall be elected to terms of four years and until their successors are elected and qualified on a staggered basis in alternate election cycles such that every two years two councilmembers are up for election.

(d)(1) In order to ensure staggered elections of the councilmembers, in the first election of the city council the terms for the candidates elected for Council Districts 2, 4, and 6 shall expire upon the administration of the oath of office to their successors elected in the regular election held in November, 2025.

(2) The terms for the candidates elected for Council Districts 1, 3, and 5 shall expire 236 upon the administration of the oath of office to their successors elected in the regular election held in November, 2027.

(3) Thereafter, a successor to each councilmember shall be elected at the November election immediately preceding the end of such councilmember's term of office, and the term of each councilmember shall expire upon the administration of the oath of office to his or her successor.

(e)(1) With the exception of the initial term of office, the mayor of the City of Buckhead City, with the powers and duties specified herein, shall be elected to a term of four years and until his or her successor is elected and qualified. The mayor shall be elected by a majority vote of the qualified electors of the city at large voting at the elections of the city. In the event that no candidate for mayor obtains a majority vote of the qualified electors of the city at large voting at the elections of the city, a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election shall be included in the run-off election, and the candidate receiving the highest number of votes in the run-off election of the qualified electors of the city at large voting at such run-off election shall be elected.

(2) The term of the first elected mayor shall expire upon the administration of the oath of office to his or her successor elected in the regular election held in November, 2027. Thereafter, a successor to each mayor shall be elected at the November election immediately preceding the end of such mayor's term of office, and the term of each mayor shall expire upon the administration of the oath of office to his or her successor.

SECTION 2.11.

Mayor and councilmembers; terms and qualifications for office.

(a) For all elections subsequent to the first election, the mayor and councilmembers shall serve for terms of four years and until their terms

expire upon the administration of the oath of office to their successors. No person shall be eligible to serve as mayor or councilmember unless that person shall have been a resident of the City of Buckhead City for a continuous period of at least 12 months immediately prior to the date of the election for mayor or councilmember, shall continue to reside therein during that person's period of service, and shall continue to be registered and qualified to vote in municipal elections of the City of Buckhead City. In addition to the above requirements, no person shall be eligible to serve as a councilmember representing a council district unless that person has been a resident of the district such person seeks to represent for a continuous period of at least six months immediately prior to the date of the election for councilmember and continues to reside in such district during that person's period of service.

(b) An election shall be held on the third Tuesday in March, 2025, to elect the first mayor and city council. At such election, the first mayor and council shall be elected to serve for the initial terms of office specified in subsection (e) of Section 2.01 of this charter. Thereafter, the time for holding regular municipal elections shall be on the Tuesday next following the first Monday in November of each odd-numbered year beginning in 2027.

(c) For the initial terms of the councilmembers of Districts 2, 4, and 6, the councilmembers serving from such districts shall serve full time. Thereafter, Districts 2, 4, and 6 will be part-time positions. For the first two years of the initial terms of the councilmembers of Districts 1, 3, and 5, the councilmembers serving from such districts shall serve full time, and thereafter Districts 1, 3, and 5 will be part-time positions.

(d) The number of consecutive terms an individual may hold a position as a councilmember shall be unlimited.

(e) The number of consecutive terms an individual may hold the position of mayor shall be limited to two four-year terms and shall not include any partial term of office served as mayor.

(f) No person who has been convicted of a felony or a crime of moral turpitude shall be eligible for election or to serve as mayor or councilmember.

(g) No person who was a holder of elected public office at the time of the enactment of this charter shall be eligible for election or to serve as mayor or councilmember during the first four years of the city's existence.

SECTION 2.12.

Vacancy; filling of vacancies; suspensions.

(a) Vacancies. The office of mayor or councilmember shall become vacant upon such person's failing or ceasing to reside in the city or upon the occurrence of any event specified by the Constitution, Title 45 of the O.C.G.A., or such other applicable laws as are or may hereafter be enacted, or upon qualifying for any municipal office other than reelection to the present office held. Notwithstanding any other provisions within this charter, the mayor, or such other presiding officer of the council upon disqualification of the mayor, shall appoint the successor to serve the balance of the vacated term.

(b) Filling of vacancies. A vacancy in the office of mayor or councilmember shall be filled for the remainder of the unexpired term, if any, by appointment if less than 12 months remain in the unexpired term, otherwise by an election as provided for in Section 5.14 of this charter and Titles 21 and 45 of the O.C.G.A. or such other laws as are or may hereafter be enacted.

(c) Suspension. Upon the suspension from office of mayor or councilmember in any manner authorized by the general laws of the State of Georgia, the city council or those remaining shall appoint a successor for the duration of the suspension. If the suspension becomes permanent, then the office shall become vacant and shall be filled for the remainder of the unexpired term, if any, as provided for in this charter.

SECTION 2.13.

Compensation and expenses.

(a)(1) The mayor shall receive an initial salary of \$225,000.00 per year for the first four years, paid in equal monthly installments from the funds of the city, and \$179,000.00 for any year following. (2) Each councilmember shall receive a salary of \$72,000.00 per year, paid in equal monthly installments from the funds of the city.

(b) The mayor and councilmember salaries are subject to cost of living increases as ascertained by the city council.

(c) The mayor and councilmembers may alter their compensation, as provided by law; provided, however, that five affirmative votes shall be required to raise the salary pursuant to this provision and a unanimous vote shall be required to lower the salary pursuant to this provision.

SECTION 2.14.

Conflicts of interest; holding other offices.

(a) Elected and appointed officers of the city are trustees and servants of the residents of the city and shall act in a fiduciary capacity for the benefit of such residents.

(b) Conflict of interest. No elected official, appointed officer, or employee of the city or any agency or political entity to which this charter applies shall knowingly:

(1) Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of that person's official duties or which would tend to impair the independence of that person's judgment or action in the performance of that person's official duties;

(2) Engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of that person's official duties or would tend to impair the independence of that person's judgment or action in the performance of that person's official duties;

(3) Disclose confidential information, including information obtained at meetings which are closed pursuant to Chapter 14 of Title 50 of the O.C.G.A., concerning the property, government, or affairs of the governmental body by which that person is engaged without proper legal authorization or use such information to advance the financial or other private interest of that person or others;

(4) Accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm, or corporation which to that person's knowledge is interested, directly or indirectly, in any manner whatsoever, in business dealings with the governmental body by which that person is engaged; provided, however, that an elected official who is a candidate for

public office may accept campaign contributions and services in connection with any such campaign;

(5) Represent other private interests in any action or proceeding against this city or any portion of its government; or

(6) Vote or otherwise participate in the negotiation or in the making of any contract with any business or entity in which that person has a financial interest.

(c) Disclosure. Any elected official, appointed officer, or employee who shall have any financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city shall disclose such interest to the city council. The mayor or any councilmember who has a financial interest in any matter pending before the city council shall disclose such interest and such disclosure shall be entered on the records of the city council, and that person shall disqualify himself or herself from participating in any decision or vote relating thereto. Any elected official, appointed officer, or employee of any agency or political entity to which this charter applies who shall have any financial interest, directly or indirectly, in any contract or matter pending before or within such entity shall disclose such interest to the governing body of such agency or entity.

(d) Use of public property. No elected official, appointed officer, or employee of the city or any agency or entity to which this charter applies shall use property owned by such governmental entity for personal benefit, convenience, or profit except in accordance with policies promulgated by the city council or the governing body of such agency or entity.

(e) Contracts voidable and rescindable. Any violation of this section which occurs with the knowledge, express or implied, of a party to a contract or sale shall render such contract or sale voidable at the option of the city council.

(f) Ineligibility of elected official. Except where authorized by law, neither the mayor nor any councilmember shall hold any other elective or compensated appointive office in the city or otherwise be employed by said government or any agency thereof during the term for which that person was elected. No former councilmember and no former mayor shall hold any compensated appointive office in the city until one year after the expiration of the term for which that person was elected.

(g) Political activities of certain officers and employees. No appointed officer and no employee of the city shall continue in such employment upon qualifying as a candidate for nomination or election to any public office. No

employee of the city shall continue in such employment upon election to any public office in this city or any other public office which is inconsistent, incompatible, or in conflict with the duties of the city employee. Such determination shall be made by the mayor and city council either immediately upon election or at any time such conflict may arise.

(h) Penalties for violation.

(1) Any city officer or employee who knowingly conceals such financial interest or knowingly violates any of the requirements of this section shall be guilty of malfeasance in office or position and shall be deemed to have forfeited that person's office or position.

(2) Any officer or employee of the city who shall forfeit that person's office or position as described in paragraph (1) of this subsection shall be ineligible for appointment or election to or employment in a position in the city government for a period of three years thereafter.

SECTION 2.15.

Inquiries and investigations.

Following the adoption of an authorizing resolution, the city council may make inquiries and investigations into the affairs of the city and conduct of any department, office, or agency thereof and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the city council shall be punished as may be provided by ordinance.

SECTION 2.16.

General power and authority of the city council.

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

SECTION 2.17.

Organizational meetings.

Unless otherwise provided by ordinance, the city council shall hold an organizational meeting on the first Tuesday in January of each even-numbered year. The meeting shall be called to order by the city clerk and the oath of office shall be administered to the newly elected members as follows: "I do solemnly (swear) (affirm) that I will faithfully perform the duties of (mayor) (councilmember) of this city and that I will support and defend the charter thereof as well as the Constitution and laws of the State of Georgia and the United States of America."

SECTION 2.18.

Meetings.

(a) The city council shall hold regular meetings at such times and places as shall be 414 prescribed by ordinance.

(b) Special meetings of the city council may be held on call of the mayor or three members of the city council. Notice of such special meeting shall be served on all other members personally, or by telephone personally, at least 48 hours in advance of the meeting. Such notice to councilmembers shall not be required if the mayor and all councilmembers are present when the special meeting is called. Such notice of any special meeting may be waived by a councilmember in writing before or after such a meeting and attendance at the meeting shall also constitute a waiver of notice on any business transacted in such councilmember's presence. Only the business stated in the call may be transacted at the special meeting.

(c) All meetings of the city council shall be public to the extent required by law, and notice to the public of special meetings shall be made as fully as is reasonably possible as provided by Code Section 50-14-1 of the O.C.G.A. or other such applicable laws as are or may hereafter be enacted.

SECTION 2.19.

Rules of procedure.

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

(b) All committees and committee chairpersons and officers of the city council shall be appointed by the mayor and shall serve at the pleasure of the mayor. The mayor shall have the power to appoint new members to any committee at any time.

SECTION 2.20.

Quorum; voting.

The mayor and three councilmembers, or four councilmembers without the mayor, shall constitute a quorum and shall be authorized to transact business of the city council. Voting on the adoption of ordinances shall be by voice vote and the vote shall be recorded in the journal, but any councilmember shall have the right to request a roll-call vote and such vote shall be recorded in the journal. Except as otherwise provided in this charter, the affirmative vote of four councilmembers shall be required for the adoption of any ordinance, resolution, or motion. An abstention shall be counted as an affirmative vote.

SECTION 2.21.

Ordinance form; procedures.

(a) Every proposed ordinance should be introduced in writing and in the form required for final adoption. No ordinance shall contain a subject which is not expressed in its title. The enacting clause shall be "It is hereby ordained by the governing authority of the City of Buckhead City..." and every ordinance shall so begin.

(b) An ordinance may be introduced by any councilmember and be read at a regular or special meeting of the city council. Ordinances shall be considered and adopted or rejected by the city council in accordance with the rules which it shall establish; provided, however, that an ordinance shall not be adopted

the same day it is introduced, except for emergency ordinances provided for in Section 2.23 of this charter. Upon introduction of any ordinance, the clerk shall as soon as possible distribute a copy to the mayor and to each councilmember and shall file a reasonable number of copies in the office of the clerk and at such other public places as the city council may designate.

SECTION 2.22.

Action requiring an ordinance.

Acts of the city council which have the force and effect of law shall be enacted by ordinance.

SECTION 2.23.

Emergencies.

(a) To meet a public emergency affecting life, health, property, or public peace, the city council may convene on call of the mayor or three councilmembers and may promptly adopt an emergency ordinance, but such ordinance may not levy taxes; grant, renew, or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money except for loans to be repaid within 30 days. An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least four councilmembers shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed 30 days following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(b) Such meetings shall be open to the public to the extent required by law and notice to the public of emergency meetings shall be made as fully as is reasonably possible in accordance with Code Section 50-14-1 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted.

SECTION 2.24.

Codes of technical regulations.

(a) The city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such adopting ordinance shall be as prescribed for ordinances generally except that: (1) the requirements of subsection (b) of Section 2.21 of this charter for distribution and filing of copies of the ordinance shall be construed to include copies of any code of technical regulations, as well as the adopting ordinance; and (2) a copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to Section 2.25 of this charter.

(b) Copies of any adopted code of technical regulations shall be made available by the clerk for inspection by the public.

SECTION 2.25.

Signing; authenticating;
recording; codification; printing.

(a) The clerk shall authenticate by the clerk's signature and record in full in a properly indexed book kept for that purpose all ordinances adopted by the city council.

(b) The city council shall provide for the preparation of a general codification of all the ordinances of the city having the force and effect of law. The general codification shall be adopted by the city council by ordinance and shall be published promptly, together with all amendments thereto and such codes of technical regulations and other rules and regulations as the city council may specify. This compilation shall be known and cited officially as "The Code of the City of Buckhead City, Georgia." Copies of the code shall be furnished

to all officers, departments, and agencies of the city and made available for purchase by the public at a reasonable price as fixed by the city council.

(c) The city council shall cause each ordinance and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances and charter amendments shall be made available for purchase by the public at reasonable prices to be fixed by the city council. Following publication of the first code under this charter and at all times thereafter, the ordinances and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for incorporation therein. The city council shall make such further arrangements as deemed desirable with reproduction and distribution of any current changes in or additions to codes of technical regulations and other rules and regulations included in the code.

SECTION 2.26.

City manager; appointment; qualifications; compensation.

The mayor shall appoint a city manager, also known as "the manager," for an indefinite term. The city council shall fix the manager's compensation. The city manager shall be appointed solely on the basis of that person's executive and administrative qualifications, and shall report to and be supervised by the mayor.

SECTION 2.27.

Removal of city manager.

(a) The city council may remove the manager from office in accordance with the following 528 procedures:

(1) The city council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the manager;

(2) Within five days after a copy of the resolution is delivered to the manager, the manager may file with the city council a written request for a public

hearing. This hearing shall be held within 30 days after the request is filed. The manager may file with the council a written reply not later than five days before the hearing; and

(3) If the manager has not requested a public hearing within the time specified in paragraph (2) of this subsection, the city council may adopt a final resolution for removal, which may be made effective immediately, by an affirmative vote of a majority of all its members. If the manager has requested a public hearing, the city council may adopt a final resolution for removal, which may be made effective immediately, by an affirmative vote of a majority of all its members at any time after the public hearing.

(b) The manager may continue to receive a salary until the effective date of a final resolution of removal.

SECTION 2.28.

Acting city manager.

By letter filed with the city clerk, the city manager shall designate, subject to approval of the city council, a qualified city administrative officer to exercise the powers and perform the duties of city manager during the city manager's temporary absence or physical or mental disability. During such absence or disability, the city council may revoke such designation at any time and appoint another officer of the city to serve until the city manager shall return or the city manager's disability shall cease.

SECTION 2.29.

Powers and duties of the city manager.

The city manager shall be the chief administrative officer of the city. The city manager shall be responsible to the city council for the administration of all city affairs placed in the city manager's charge by or under this charter. As the chief administrative officer, the city manager shall:

(1) Appoint and, when the city manager deems it necessary for the good of the city, suspend or remove all city employees and administrative officers the city manager appoints, except as otherwise

provided by law or personnel ordinances adopted pursuant to this charter. The city manager may authorize any department director or administrative officer who is subject to the city manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;

(2) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law;

(3) Attend all city council meetings except for closed meetings held for the purposes of deliberating on the appointment, discipline, or removal of the city manager and have the right to take part in discussion but the city manager may not vote;

(4) See that all laws, provisions of this charter, and acts of the city council, subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision, are faithfully executed;

(5) At the direction of the mayor, prepare and submit the annual operating budget and capital budget to the city council;

(6) Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;

(7) Make such other reports as the city council may require concerning the operations of city departments, offices, and agencies subject to the city manager's direction and supervision;

(8) Keep the city council fully advised as to the financial condition and future needs of the city, and make such recommendations to the city council concerning the affairs of the city as the city manager deems desirable; and

(9) Perform other such duties as are specified in this charter or as may be required by the mayor.

SECTION 2.30.

Council interference with administration.

Except for the purpose of inquiries and investigations under Section 2.15 of this charter, the city council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the city council nor its members shall give orders to any such officer or employee, either publicly or privately. The city council shall act in all matters as a body and no member shall seek individually to influence the official acts of the city manager or any other officer or employee of the city, or direct or request the appointment of any person to, or his or her removal from, any office or position of employment, or to interfere in any way with the performance of the duties by the city manager or other officers or employees.

SECTION 2.31.

Election of mayor; forfeiture.

The mayor shall be elected at large by the voters of the city and serve for a term of four years and until a successor is elected and qualified. The mayor shall be a qualified elector of this city and shall have been a resident of the city for 12 months prior to the date of election. The mayor shall continue to reside in this city during the period of service. The mayor shall forfeit the office on the same grounds and under the same procedure as for councilmembers.

SECTION 2.32.

Mayor pro tem.

The city council at the first regular meeting after the newly elected councilmembers have taken office following each election shall elect a councilmember to serve as mayor pro tem. The mayor pro tem shall be elected by a majority vote of the city council. The mayor pro tem shall serve for a term of two years. The mayor pro tem shall assume the duties and powers of the mayor during the mayor's physical or mental disability, suspension from office, or absence. Any such disability of the mayor shall be declared by a majority vote of the city council. The mayor pro tem shall sign all contracts and ordinances in which the mayor has a disqualifying financial

interest as provided in Section 2.14 of this charter. When acting as mayor, the mayor pro tem shall be entitled to vote as a member of the council.

SECTION 2.33.

Powers and duties of mayor.

The mayor shall:

- (1) Devote a full-time work schedule to the office elected hereto;
- (2) Direct and supervise the city manager;
- (3) Preside at all meetings of the city council;
- (4) Be the head of the city for the purpose of service of process and for ceremonial purposes, and be the official spokesperson for the city and the chief advocate of policy;
- (5) Have the power to administer oaths and to take affidavits;
- (6) Sign as a matter of course on behalf of the city all written and approved contracts, ordinances, resolutions, and other instruments executed by the city which by law are required to be in writing; and
- (7) Perform such other duties as may be required by law, this charter, or by ordinance.

ARTICLE III.

ADMINISTRATIVE AFFAIRS

SECTION 3.10.

Administrative and service departments.

(a) Except as otherwise provided in this charter, the city council by ordinance shall prescribe the functions or duties and establish, abolish, alter, consolidate, or leave vacant all nonelective offices, positions of employment,

departments, and agencies of the city as necessary for the proper administration of the affairs and government of this city.

(b) Except as otherwise provided by this charter or by law, the directors of departments and other appointed officers of the city shall be appointed solely on the basis of their respective administrative and professional qualifications.

(c) All appointed officers and directors of departments shall receive such compensation as prescribed by ordinance.

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

(e) All appointed officers and directors under the supervision of the city manager shall be nominated by the city manager with confirmation of appointment by the city council. All appointed officers and directors shall be employees at will and subject to removal or suspension at any time by the city manager unless otherwise provided by law or ordinance.

SECTION 3.11.

Boards, commissions, and authorities.

(a) The city council shall create by ordinance such boards, commissions, and authorities to fulfill any investigative, quasi-judicial, or quasi-legislative function the city council deems necessary and shall by ordinance establish the composition, period of existence, duties, and powers thereof.

(b) All members of boards, commissions, and authorities of the city shall be appointed by the mayor and council for such terms of office and in such manner as shall be provided by ordinance, except where other appointing authority, terms of office, or manner of appointment is prescribed by this charter or by law.

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

(d) Except as otherwise provided by charter or by law, no member of any board, commission, or authority shall hold any elective office in the city.

(e) Any vacancy on a board, commission, or authority of the city shall be filled for the unexpired term in the manner prescribed in this charter for original appointment, except as otherwise provided by this charter or by law.

(f) No member of a board, commission, or authority shall assume office until that person has executed and filed with the clerk of the city an oath obligating that person to perform faithfully and impartially the duties of that person's office; such oath shall be prescribed 668 by ordinance and administered by the mayor.

(g) All members of boards, commissions, or authorities of the city serve at will and may be removed at any time by the mayor and council unless otherwise provided by law.

(h) Except as otherwise provided by this charter or by law, each board, commission, or authority of the city shall elect one of its members as chairperson and one member as vice chairperson and may elect as its secretary one of its own members or may appoint as secretary an employee of the city. Each board, commission, or authority of the city government may establish such bylaws, rules, and regulations, not inconsistent with this charter, ordinances of the city, or law, as it deems appropriate and necessary for the fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and regulations shall be filed with the clerk of the city.

SECTION 3.12.

City attorney.

The mayor and council shall appoint a city attorney, together with such assistant city attorneys as may be authorized, and shall provide for the payment of such attorney or attorneys for services rendered to the city. The city attorney shall be responsible for providing for the representation and defense of the city in all litigation in which the city is a party; may be the prosecuting officer in the municipal court; shall attend the meetings of the city council as directed; shall advise the mayor and council and other officers and employees of the city concerning legal aspects of the city's affairs; and shall perform such other duties as may be required by virtue of such person's position as city attorney.

SECTION 3.13.

City clerk.

The mayor and council shall appoint a city clerk who shall not be a councilmember. The city clerk shall be custodian of the official city seal and city records; maintain city council records required by this charter; and perform such other duties as may be required by the city council.

SECTION 3.14.

Position classification and pay plans.

The city manager shall be responsible for the preparation of a position classification and pay plan which shall be submitted to the city council for approval. Such plan may apply to all employees of the city and any of its agencies, departments, boards, commissions, or authorities. When a pay plan has been adopted, the city council shall not increase or decrease the salary range applicable to any position except by amendment of such pay plan. For purposes of this section, all elected and appointed city officials are not city employees.

SECTION 3.15.

Personnel policies.

All employees serve at will and may be removed from office at any time unless otherwise provided by ordinance.

ARTICLE IV.

JUDICIAL BRANCH

SECTION 4.10.

Creation; name.

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

SECTION 4.11.

Chief judge; associate judge.

- (a)(1) The municipal court shall be presided over by a chief judge and such part-time, full-time, or standby judges as shall be provided by ordinance.
- (2) The chief judge shall serve full time.
- (3) The mayor shall appoint all judges.
- (4) The terms of appointment for judges shall be the minimum terms required by law.
- (b) No person shall be qualified or eligible to serve as a judge on the municipal court unless that person shall have attained the age of 21 years and shall be a member of the State Bar of Georgia and shall possess all qualifications required by law. All judges shall be appointed by the city council and shall serve a term as provided by law and until a successor is appointed and qualified.
- (c) Compensation of the judges shall be fixed by ordinance.
- (d) Judges may be removed from office as provided by law.
- (e) Before assuming office, each judge shall take an oath, given by the mayor, that such judge will honestly and faithfully discharge the duties of the judge's office to the best of the judge's ability and without fear, favor, or partiality. The oath shall be entered upon the minutes of the city council journal required in Section 2.19 of this charter.

SECTION 4.12.

Convening.

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

SECTION 4.13.

Jurisdiction; powers.

- (a) The municipal court shall try and punish violations of this charter, all city ordinances, and such other violations as provided by law.
- (b) The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$200.00 or ten days in jail.
- (c) The municipal court may fix punishment for offenses within its jurisdiction not exceeding a fine of \$1,000.00 or imprisonment for six months or both such fine and imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing, as now or hereafter provided by law.
- (d) The municipal court shall have authority to establish a schedule of fees to defray the cost of operation and shall be entitled to reimbursement of the cost of meals, transportation, and caretaking of prisoners bound over to superior courts for violations of state law.
- (e) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before such court and shall have discretionary authority to accept cash or personal or real property as surety for the appearance of persons charged with violations. Whenever any person shall give bail for that person's appearance and shall fail to appear at the time fixed for trial, that person's bond shall be forfeited by the judge presiding at such time and an execution issued thereon by serving the defendant and the defendant's sureties with a rule nisi at least two days before a hearing on the rule nisi. In the event that cash or property is accepted in lieu of bond for security for the appearance of a defendant at trial, and if such defendant fails to appear at the time and place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited to the city, or the property so deposited shall have a lien against it for the value forfeited which lien shall be enforceable in the same manner and to the same extent as a lien for city property taxes.

(f) The municipal court shall have the same authority as superior courts to compel the 760 production of evidence in the possession of any party; to enforce obedience to its orders, judgments, and sentences; and to administer such oaths as are necessary.

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

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

SECTION 4.14.

Certiorari.

The right of certiorari from the decision and judgment of the municipal court shall exist in all criminal cases and ordinance violation cases, and such certiorari shall be obtained under the sanction of a judge of the Superior Court of Fulton County under the laws of the State of Georgia regulating the granting and issuance of writs of certiorari.

SECTION 4.15.

Rules for court.

With the approval of the city council, the judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court; provided, however, that the city council may adopt in part or in toto the rules and regulations applicable to municipal courts. The rules and regulations made or adopted shall be filed with the city clerk, shall be available for public inspection, and, upon request, a copy shall be furnished to all defendants in municipal court proceedings at least 48 hours prior to such proceedings.

ARTICLE V.
ELECTIONS AND REMOVAL

SECTION 5.10.

Applicability of general law.

All primaries and elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

SECTION 5.11.

Regular elections; time for holding.

Except as otherwise provided in Article VIII of this charter for the initial elections, there shall be a municipal general election biennially in odd-numbered years on the Tuesday next following the first Monday in November. There shall be elected the mayor and three councilmembers at one election and at every other election thereafter. The remaining three councilmember seats shall be filled at the election alternating with the first election so that a continuing body is created.

SECTION 5.12.

Nonpartisan elections.

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

SECTION 5.13.

Election by majority.

The candidate receiving a majority of the votes cast for any city office shall be elected.

SECTION 5.14.

Special elections; vacancies.

In the event that the office of mayor or councilmember shall become vacant as provided in Section 2.12 of this charter, the city council or those remaining shall order a special election to fill the balance of the unexpired term of such official; provided, however, that, if such vacancy occurs within 12 months of the expiration of the term of that office, the mayor shall appoint a successor for the remainder of the term. In all other respects, the special election shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

SECTION 5.15.

Other provisions.

Except as otherwise provided by this charter, the city council shall, by ordinance, prescribe such rules and regulations as it deems appropriate to fulfill any options and duties under Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

SECTION 5.16.

Removal of officers.

(a) A councilmember, the mayor, or other appointed officers provided for in this charter shall be removed from office for any one or more of the causes provided in Title 45 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted.

(b) Removal of an officer pursuant to subsection (a) of this section shall be accomplished by one of the following methods:

- (1) Following a hearing at which an impartial panel shall render a decision. In the event an elected officer is sought to be removed by the action of the city council, such officer shall be entitled to a written notice specifying the ground or grounds for removal and to a public hearing which shall be held not less than ten days after the service of such written notice. The city council shall provide by ordinance for the manner in which such hearings shall be held. Any elected officer sought to be removed from office as provided in this section shall have the right of appeal from the decision of the city council to the Superior Court of Fulton County. Such appeal shall be governed by the same rules as govern appeals to the superior court from the probate court; or
- (2) By an order of the Superior Court of Fulton County following a hearing on a complaint seeking such removal brought by any resident of the City of Buckhead City.

ARTICLE VI.

FINANCE

SECTION 6.10.

Property tax.

- (a) The city council may assess, levy, and collect an ad valorem tax on all real and personal property within the corporate limits of the city that is subject to such taxation by the state and county. This tax is for the purpose of raising revenues to defray the costs of operating the city government, of providing governmental services, for the repayment of principal and interest on general obligations, and for any other public purpose as determined by the city council in its discretion.
- (b) There shall be assessed, levied, and collected an annual ad valorem tax for the support of public schools and for educational purposes, at the millage rate determined by the board of education of the Atlanta Independent School System, to be billed and collected as other ad valorem taxes are billed and collected in accordance with this charter, the basis for the billing and collection of such tax to be the millage as set forth in an annual written request signed by the president of said board of education together with a certified copy of said board's budget and filed with the governing authority, the format

and time of annual filing of such request to be the only action by the governing authority of the city necessary to levy such tax annually. All revenue derived from such school and educational ad valorem tax shall be paid into the treasury of the city and shall be remitted monthly to said board of education free from any charge except the direct cost of collecting such tax.

SECTION 6.11.

Millage rate; due dates; payment methods.

The city council by ordinance shall establish a millage rate for the city property tax for municipal purposes, a due date, and the time period within which these taxes must be paid, provided that such millage rate shall not exceed 7.85 mills. The city council by ordinance may provide for the payment of these taxes by installments or in one lump sum, as well as authorize the voluntary payment of taxes prior to the time when due. The millage rate cap provided by this section shall not apply to:

- (1) Any ad valorem taxes levied by the city to repay any bonds issued pursuant to this charter or state law;
- (2) Any ad valorem taxes levied by the city to repay any obligations of the city of Atlanta that the city assumes pursuant to this charter or by operation of state law; or
- (3) Any ad valorem taxes for educational purposes levied by the city on behalf the Atlanta Independent School System.

SECTION 6.12.

Occupation and business taxes.

The city council by ordinance shall have the power to levy such occupation or business taxes as are not denied by law. The city council may classify businesses, occupations, or professions for the purpose of such taxation in any way which may be lawful and may compel the payment of such taxes as provided in Section 6.18 of this charter.

SECTION 6.13.

Licenses; permits; fees.

The city council by ordinance shall have the power to require businesses or practitioners doing business in this city to obtain a permit for such activity from the city and pay a regulatory fee for such permit as provided by general law. Such fees shall reflect the total cost to the city of regulating the activity and, if unpaid, shall be collected as provided in Section 6.18 of this charter.

SECTION 6.14.

Franchises.

(a) The city council shall have the power to grant franchises for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies, and other similar organizations. The city council shall determine the duration, terms, whether the same shall be exclusive or nonexclusive, and the consideration for such franchises; provided, however, that no franchise shall be granted for a period in excess of 35 years and no franchise shall be granted unless the city receives just and adequate compensation therefor. The city council shall provide for the registration of all franchises with the city clerk in a registration book kept by the city clerk. The city council may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

(b) If no franchise agreement is in effect, the city council has the authority to impose a tax on gross receipts for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies, and other similar organizations.

SECTION 6.15.

Service charges.

The city council by ordinance shall have the power to assess and collect fees, charges, and tolls for services provided or made available within and outside the corporate limits of the city for the total cost to the city of providing or making available such services. If unpaid, such charges shall be collected as provided in Section 6.18 of this charter.

SECTION 6.16.

Special assessments.

The city council by ordinance shall have the power to assess and collect the cost of constructing, reconstructing, widening, or improving any public way, street, sidewalk, curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property owners. If unpaid, such charges shall be collected as provided in Section 6.18 of this charter.

SECTION 6.17.

Construction; other taxes.

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

SECTION 6.18.

Collection of delinquent taxes and fees.

The city council by ordinance may provide generally for the collection of delinquent taxes, fees, or other revenue due the city under Sections 6.10 through of this charter by whatever reasonable means as are not precluded by

law. This shall include providing for the dates when the taxes or fees are due; late penalties or interest; issuance and execution of fi. fas.; creation and priority of liens; making delinquent taxes and fees personal debts of the persons required to pay the taxes or fees imposed; revoking city permits for failure to pay any city taxes or fees; and providing for the assignment or transfer of tax executions.

SECTION 6.19.

General obligation bonds.

The city council shall have the power to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized under this charter or the laws of the state. Such bonding authority shall be exercised in accordance with the laws governing bond issuance by municipalities in effect at the time said issue is undertaken.

SECTION 6.20.

Revenue bonds.

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

SECTION 6.21.

Short-term loans.

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

SECTION 6.22.

Lease-purchase contracts.

The city may enter into multiyear lease, purchase, or lease-purchase contracts for the acquisition of goods, materials, real and personal property, services, and supplies, provided the contract terminates without further obligation on the part of the municipality at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed. Contracts must be executed in accordance with the requirements of Code Section 36-60-13 of the O.C.G.A., or other such applicable laws as are or may hereafter be enacted.

SECTION 6.23.

Fiscal year.

The city council shall set the fiscal year by ordinance. This fiscal year shall constitute the budget year and the year for financial accounting and reporting of each and every office, department, agency, and activity of the city government.

SECTION 6.24.

Budget ordinance.

The city council shall provide an ordinance on the procedures and requirements for the preparation and execution of an annual operating budget, a capital improvement plan, and a capital budget, including requirements as to the scope, content, and form of such budgets and plans. The city council shall also comply with the budgeting and auditing provisions of Chapter 81 of Title 36 of the O.C.G.A.

SECTION 6.25.

Operating budget.

On or before a date fixed by the city council but not later than 60 days prior to the beginning of each fiscal year, the city manager shall submit to the city council a proposed operating budget for the ensuing fiscal year. The budget shall be accompanied by a message from the city manager containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget, and other pertinent comments and information. The operating budget and the capital budget provided for in Section 6.29 of this charter, the budget message, and all supporting documents shall be filed in the office of the city clerk and shall be open to public inspection.

SECTION 6.26.

Action by city council on budget.

(a) The councilmembers may amend the operating budget proposed by the mayor, except that the budget as finally amended and adopted must provide for all expenditures required by state law or by other provisions of this charter and for all debt service requirements for the ensuing fiscal year. The total appropriations from any fund shall not exceed the estimated fund balance, reserves, and revenues.

(b) The city council by ordinance shall adopt the final operating budget for the ensuing fiscal year not later than December 15 of each year. If the city council fails to adopt the budget by said date, the amounts appropriated for operation for the then current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly, until such time as the city council adopts a budget for the ensuing fiscal year. Adoption of the budget shall take the form of an appropriations ordinance setting out the estimated revenues in detail by sources and making appropriations according to fund and by organizational unit, purpose, or activity as set out in the budget preparation ordinance adopted pursuant to Section 6.24 of this charter.

(c) The amount set out in the adopted operating budget for each organizational unit shall constitute the annual appropriation for such, and no expenditure shall be made or encumbrance created in excess of the otherwise unencumbered balance of the appropriations or allotment thereof to which it is chargeable.

SECTION 6.27.

Levy of taxes.

The city council shall levy by ordinance such taxes as are necessary. The taxes and tax rates set by such ordinance shall be such that reasonable estimates of revenues from such levy shall at least be sufficient, together with other anticipated revenues, fund balances, and applicable reserves, to equal the total amount appropriated for each of the several funds set forth in the annual operating budget for defraying the expenses of the general government of this city.

SECTION 6.28.

Changes in appropriations.

The city council by ordinance may make changes in the appropriations contained in the current operating budget at any regular meeting or special or emergency meeting called for such purpose, but any additional appropriations may be made only from an existing unexpended surplus.

SECTION 6.29.

Capital improvements.

(a) On or before the date fixed by the city council, but not later than 60 days prior to the beginning of each fiscal year, the mayor shall submit to the city council a proposed capital improvements plan with a recommended capital budget containing the means of financing the improvements proposed for the ensuing fiscal year. The city council shall have power to accept, with or without amendments, or reject the proposed plan and budget. The city council shall not authorize an expenditure for the construction of any building, structure, work, or improvement unless the appropriations for such project are included in the capital budget, except to meet a public emergency as provided in Section 2.23 of this charter.

(b) The city council shall adopt by ordinance the final capital budget for the ensuing fiscal year not later than December 15 of each year. No appropriation provided for in a prior capital budget shall lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned; provided, however, that the mayor may submit amendments to the capital budget at any time during the fiscal year, accompanied by recommendations. Any such amendments to the capital budget shall become effective only upon adoption by ordinance.

SECTION 6.30.

Audits.

There shall be an annual independent audit of all city accounts, funds, and financial transactions by a certified public accountant selected by the city council. The audit shall be conducted according to generally accepted auditing principles. Any audit of any funds by the state or federal governments may be accepted as satisfying the requirements of this charter. Copies of annual audit reports shall be available at printing costs to the public.

SECTION 6.31.

Procurement and property management.

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

- (1) It is in writing;
- (2) It is drawn by or submitted and reviewed by the city attorney and, as a matter of course, is signed by the city attorney to indicate such drafting or review; and
- (3) It is made or authorized by the city council and such approval is entered in the city council journal of proceedings pursuant to Section 2.19 of this charter.

SECTION 6.32.

Purchasing.

The city council shall by ordinance prescribe procedures for a system of centralized purchasing for the city.

SECTION 6.33.

Sale and lease of property.

(a) The city council may sell and convey or lease any real or personal property owned or held by the city for governmental or other purposes as now or hereafter provided by law.

(b) The city council may quitclaim any rights it may have in property not needed for public purposes upon report by the mayor and adoption of a resolution, both finding that the property is not needed for public or other purposes and that the interest of the city has no readily ascertainable monetary value.

(c) Whenever in opening, extending, or widening any street, avenue, alley, or public place of the city a small parcel or tract of land is cut off or separated by such work from a larger tract or boundary of land owned by the city, the city council may authorize the mayor to sell and convey said cut-off or separated parcel or tract of land to an abutting or adjoining property owner or owners where such sale and conveyance facilitates the highest and best use of the abutting owner's property. Included in the sales contract shall be a provision for the rights of way of said street, avenue, alley, or public place. Each abutting property owner shall be notified of the availability of the property and given the opportunity to purchase said property under such terms and conditions as set out by ordinance. All deeds and conveyances heretofore and hereafter so executed and delivered shall convey all title and interest the city has in such property, notwithstanding the fact that no public sale after advertisement was or is hereafter made.

SECTION 6.34.

Apportionment of revenue.

Except as otherwise agreed pursuant to Chapter 70 of Title 36 of the O.C.G.A.:

(a) For the year 2025, the City of Atlanta's collection of ad valorem taxes shall constitute payment in full for services other than water and sewer services delivered to customers sited within the City of Buckhead City; and

(b) The City of Atlanta may retain those fees, assessments, fines, and forfeitures associated with those actual services it provided during the transition period and prior to the takeover of services by the City of Buckhead City; and

(c) Through the end of the transition period and thereafter, the City of Buckhead City shall pay only for the actual cost of services provided by the City of Atlanta. Such services provided after December 30, 2024, shall be subject to an independent audit before payment.

ARTICLE VII.

GENERAL PROVISIONS

SECTION 7.10.

Bonds for officials.

The officers and employees of this city, both elected and appointed, shall execute such surety or fidelity bonds in such amounts and upon such terms and conditions as the city council shall from time to time require by ordinance or as may be provided by law.

SECTION 7.11.

Construction and definitions.

(a) Section captions in this charter are informative only and are not to be considered as a part thereof.

(b) The word "shall" is mandatory and the word "may" is permissive.

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

ARTICLE VIII.

REFERENDUM AND INITIAL ELECTIONS

SECTION 8.10.

Referendum and initial election.

(a) The election superintendent of Fulton County shall call a special election for the 1098 purpose of submitting this Act to the qualified voters of the proposed City of Buckhead City for approval or rejection. The superintendent shall set the date of such election for the Tuesday after the first Monday in November, 2024. The superintendent shall issue the call for such election at least 30 days prior to the date thereof. The superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Fulton County. The ballot shall have written or printed thereon the words:
" YES Shall the Act incorporating the City of Buckhead City in
 NO Fulton County according to the charter contained in the Act
 be approved?"

All persons desiring to vote for approval of the Act shall vote "Yes," and those persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, it shall become of full force and effect as provided in Section 8.11 of this charter, otherwise it shall be void and of no force and effect. The initial expense of such election shall be borne by Fulton County. Within two years after the elections if the incorporation is approved, the City of Buckhead City shall reimburse Fulton County for the actual cost of printing and personnel services for such election and for the initial election of the mayor and councilmembers pursuant to this charter. It shall be the duty of the superintendent to hold and conduct such election. It shall be his or her further duty to certify the result thereof to the Secretary of State.

(b) For the purposes of the referendum election provided for in subsection (a) of this section and for the purposes of the special election of the City of Buckhead City to be held on the third Tuesday of March, 2025, the qualified

electors of the City of Buckhead City shall be those qualified electors of Fulton County residing within the corporate limits of the City of Buckhead City as described by Appendix A of this charter. At subsequent municipal elections, the qualified electors of the City of Buckhead City shall be determined pursuant to the authority of Chapter 2 of Title 21 of the O.C.G.A. known as the "Georgia 1124 Election Code."

(c) Only for the purposes of holding and conducting the referendum election provided for in subsection (a) of this section and holding the special election of the City of Buckhead City to be held on the third Tuesday of March, 2025, the election superintendent of Fulton County is vested with the powers and duties of the election superintendent of the City of Buckhead City and the powers and duties of the governing authority of the City of Buckhead City.

SECTION 8.11.

Effective dates and transition.

(a) The provisions of this Act necessary for the referendum election provided for in Section 8.10 of this charter shall become effective immediately upon this Act's approval by the Governor or upon its becoming law without such approval.

(b) Those provisions of this Act necessary for the special primary and special election provided for in Section 8.13 of this charter shall be effective upon the certification of the results of the referendum election provided for by Section 8.10 of this charter if this Act is approved at such referendum election.

(c) Except as provided in Section 8.10 of this charter, the remaining provisions of this Act shall become of full force and effect for all purposes at 12:00 Midnight on June 30, 2025, except that the initial mayor and councilmembers shall take office immediately following their election and by action of a quorum may prior to 12:00 Midnight on June 30, 2025, meet and take actions binding on the city.

(d) A period of time will be needed for an orderly transition of various government functions from the City of Atlanta to the City of Buckhead City. Accordingly there shall be a transition period beginning on the date the initial mayor and councilmembers take office under this charter, and ending at 12:00 Midnight on December 31, 2025. During such transition period, all

provisions of this charter shall be effective as law, but not all provisions of this charter shall be implemented.

(e) During such transition period, the City of Atlanta shall continue to provide within the territorial limits of the City of Buckhead City all government services and functions which the City of Atlanta provided in that area during the years 2025 and 2026 and at the same actual cost, except to the extent otherwise provided in this section; provided, however, that upon at least 60 days' prior written notice to the City of Atlanta by the City of Buckhead City, responsibility for any such service or function shall be transferred to the City of Buckhead City. For the year 2025, the City of Atlanta's collection of ad valorem taxes shall constitute payment in full for services other than water and sewer services delivered to customers sited within the City of Buckhead City, and the City of Atlanta may retain those fees, assessments, fines, and forfeitures associated with those actual services it provided during the transition period and prior to the takeover of services by the City of Buckhead City. Through the end of the transition period and thereafter, the City of Buckhead City shall pay only for the actual cost of services provided by the City of Atlanta. Such services provided after December 30, 2025, shall be subject to an independent audit before payment. The City of Buckhead City shall collect taxes, fees, assessments, fines and forfeitures, and other moneys within the territorial limits of the city in the same manner as authorized immediately prior to the effective date of this section.

(f) During the transition period, the governing authority of the City of Buckhead City:

- (1) Shall hold regular meetings and may hold special meetings as provided in this 1170 charter;
- (2) May enact ordinances and resolutions as provided in this charter;
- (3) May amend this charter by home rule action as provided by general law;
- (4) May accept gifts and grants;
- (5) May borrow money and incur indebtedness to the extent authorized by this charter and general law;
- (6) May levy and collect an ad valorem tax for calendar years 2025 and 2026;
- (7) May establish a fiscal year and budget;
- (8) May create, alter, or abolish departments, boards, offices, commissions, and agencies of the city; appoint and remove officers and employees; and

exercise all necessary or appropriate personnel and management functions;
and

(9) May generally exercise any power granted by this charter or general law, except to the extent that a power is specifically and integrally related to the provision of a governmental service, function, or responsibility not yet provided or carried out by the city.

(g) Except as otherwise provided in this section, during the transition period, the Municipal Court of the City of Buckhead City may exercise its jurisdiction. During the transition period, all ordinances of the City of Atlanta on non-transferred services shall be applicable within the territorial limits of the City of Buckhead City and the appropriate court or courts of the City of Atlanta shall retain jurisdiction to enforce such ordinances. However, by mutual agreement and concurrent resolutions and ordinances if needed the City of Atlanta and the City of Buckhead City may during the transition period transfer all or part of such regulatory authority and the appropriate court jurisdiction to the City of Buckhead City. Any transfer of jurisdiction to the City of Buckhead City during or at the end of the transition period shall not in and of itself abate any judicial proceeding pending in the City of Atlanta or the pending prosecution of any violation of any ordinance of the City of Atlanta.

(h) During the transition period, the governing authority of the City of Buckhead City may at any time, without the necessity of any agreement by the City of Atlanta, commence to exercise its planning and zoning powers; provided, however, that the City of Buckhead City shall give the City of Atlanta notice of the date on which the City of Buckhead City will assume the exercise of such powers. Upon the governing authority of the City of Buckhead City commencing to exercise its planning and zoning powers, the Municipal Court of the City of Buckhead City shall immediately have jurisdiction to enforce the planning and zoning ordinances of the City of Buckhead City. The provisions of this subsection shall control over any conflicting provisions of any other subsection of this section.

(i)(1) To the extent that the City of Atlanta has obligations outstanding under general obligation bonds, lease purchase agreements, and intergovernmental contracts executed in connection with the issuance of revenue bonds on the effective date of this charter, the City of Buckhead City by operation of this charter, to the maximum extent permitted by the Georgia Constitution and general law, shall assume a pro rata share of such outstanding obligations.

(2) The City of Buckhead City by operation of this charter, to the maximum extent permitted by the Georgia Constitution and general law, shall also assume a pro rata share of any lease purchase obligations and intergovernmental contract obligations outstanding on the effective date of this charter if the creation of the City of Buckhead City causes the City of Atlanta to lose revenues that had historically been used to pay such obligations.

(3) The City of Buckhead City by operation of this charter, to the maximum extent permitted by the Georgia Constitution and general law, shall also remain contingently obligated on its pro rata share of unassumed lease purchase obligations and intergovernmental contract obligations in the event that the revenues used to pay such obligations are insufficient to pay the same.

(4) For the purpose of calculating the City of Buckhead City's pro rata share of any bond obligations provided for in this subsection, such share shall be equal to the value of the City of Buckhead City's ad valorem property tax digest for tax year 2026 divided by the value of the City of Atlanta's ad valorem property tax digest for tax year 2025.

(5) There is hereby created a special taxing district that shall be coterminous with the city limits of the City of Buckhead City, as provided for in Appendix A of this charter. Such special district shall be known as the "Buckhead Taxing District." The City of Buckhead City shall levy and collect a special tax in the Buckhead Taxing District sufficient to pay its share of the obligations provided for in this subsection.

(j) Effective upon the termination of the transition period, subsections (b) through (h) of this section shall cease to apply except for the last sentence of subsection (g) which shall remain effective. Effective upon the termination of the transition period, the City of Buckhead City shall be a full functioning municipal corporation and subject to all general laws of this state.

SECTION 8.12.

Directory nature of dates

It is the intention of the General Assembly that this Act be construed as directory rather than mandatory with respect to any date prescribed in this Act. If it is necessary to delay any action called for in this Act for providential cause or any other reason, it is the intention of the General Assembly that the

action be delayed rather than abandoned. Any delay in performing any action under this Act, whether for cause or otherwise, shall not operate to frustrate the overall intent of this Act. Without limiting the generality of the foregoing it is specifically provided that:

(1) If it is not possible to hold the referendum election provided for in Section 8.10 of this charter on the date specified in that section, then such referendum shall be held as soon thereafter as is reasonably practicable; and

(2) If it is not possible to hold the first election provided for in Section 8.13 of this charter on the date specified in that section, then there shall be a special primary and a special election for the initial members of the governing authority to be held as soon thereafter as is reasonably practicable, and the commencement of the initial terms of office shall be delayed accordingly.

SECTION 8.13.

Special election.

(a) The first election for mayor and councilmembers shall be a special election held on the third Tuesday of March, 2025. At such election, the first mayor and councilmembers shall be elected to serve for the initial terms of office specified in subsections (b) and (c) of this section. Thereafter, the time for holding regular municipal elections shall be on the Tuesday next following the first Monday in November of each odd-numbered year beginning in 2025. The successors to the first mayor and initial councilmembers and future successors shall take office at the first organizational meeting in January immediately following their election and shall serve for terms of four years and until their respective successors are elected and qualified.

(b) Three initial councilmembers shall serve a term of office of two years and until their respective successors are elected and qualified. The other three initial councilmembers shall serve a term of office of four years and until their respective successors are elected and qualified. Thereafter, successors to such initial members shall serve four-year terms of office and until their respective successors are elected and qualified.

(c) The mayor of the City of Buckhead City shall be elected by a majority vote of the qualified electors of the city at large. The mayor shall serve a term of four years and until his or her successor is elected and qualified and successors to the mayor shall serve four-year terms of office and until their successors are elected and qualified.

ARTICLE IX.
GENERAL REPEALER

SECTION 9.10.

General repealer.

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

APPENDIX A

LEGAL DESCRIPTION
CITY OF BUCKHEAD CITY, GEORGIA

User: SD053

Plan Name: BuckheadCity-Corp-2022

Plan Type: Local

District BUCKHEADCITY

County Fulton GA

VTD 06I

VTD 06N

VTD 06Q

VTD 07A

VTD 07B

VTD 07C

VTD 07D

VTD 07E

VTD 07F

VTD 07H

VTD 07J

VTD 07M

VTD 07N

VTD 08A

VTD 08B

VTD 08C

VTD 08D

VTD 08E

VTD 08F1

VTD 08F2

VTD 08G

VTD 08H

VTD 08J

VTD 08K

VTD 08L

VTD 08M

VTD 08N1

VTD 08N2

VTD 09A

Block 008906:

2004 2007 2009

VTD 09F

For the purposes of such plan, BuckheadCity-Corp-2022:

- (1) The term “VTD” 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 2020 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 as provided in the report of the Bureau of the Census for the United States decennial census of 2020 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 2020 for the State of Georgia.

APPENDIX B

User: SD053

Plan Name: BuckheadCity-Districts-2022

Plan Type: Local

District 001

County Fulton GA

VTD 07D

Block 009601:

2000 2001 2002 2003 2004 2005 2006

VTD 08A

VTD 08B

VTD 08C

VTD 08D

VTD 08F1

Block 009803:

1010

Block 009900:

2007 2009 2010 2011 2012

VTD 08M

Block 009504:

1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011

1012 1013 1014 1015 1016

VTD 08N1

District 002

County Fulton GA

VTD 07A

VTD 07B

VTD 07C

Block 009410:

2000

Block 009607:

1000 1001 1002 3000 3003 3004 3005

Block 010007:

1003 1004 1005 1008 1009 1010 1011 1012 1013 2000 2001 2006

2007

District 003

County Fulton GA

VTD 06I

VTD 06Q

VTD 07E

VTD 07F

Block 009409:

2004 2008

Block 009606:

1007 1008 1009 1010 1011 1014 1018 1022

VTD 07M

VTD 07N

District 004

County Fulton GA

VTD 07C

Block 009410:

1003

Block 009606:

1000 1001 1005 1006

Block 009607:

2000 2001 2002 2003 3001 3002 3006 3007

VTD 07D

Block 009409:

2000 2001

Block 009601:

1000 1001 1002 1003 1004 1005

Block 009605:

1000 1001 1002 1003 1004 1005 1006 2000 2001 2002 2003 3000

3001 3002 3003 3004

Block 009606:

1002 1003 1004 1012 1013 1015 1016 1017 1019 1020 1021

VTD 07F

Block 009302:

1000

Block 009604:

1000 1001 1002 2000 2001 2002 3000 3001 3002 3003 3004 3005

3006 3007 3008 3009 3010 4000 4001 4002 4003 4004 4005

VTD 07H

Block 009301:

2000 2009 2010 2011 2012 2013 2014

Block 009302:

1001 1002 1003 1004 1005 1006 1007

VTD 08G

VTD 08M

Block 009501:

2000 2001 2002 2003 2004 2007 2011 2012 2013 2014

Block 009504:

2000

District 005

County Fulton GA

VTD 06N

VTD 07H

Block 009301:

1002 2001 2002 2003 2004 2005 2006 2007 2008

VTD 07J

VTD 08H

VTD 08K

VTD 08L

District 006

County Fulton GA

VTD 08E

VTD 08F1

Block 009804:

1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011

1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 2000

2001 2002 2003 2004

VTD 08F2

1433 VTD 08J

VTD 08N2

VTD 09A

Block 008906:

2004 2007 2009

VTD 09F

APPENDIX C

**CERTIFICATE AS TO MINIMUM STANDARDS
FOR INCORPORATING A NEW MUNICIPAL CORPORATION**

I, Senator Randy Robertson, Georgia State Senate from the 29th District and the author of this bill introduced at the 2023 session of the Georgia General Assembly of Georgia, which grants an original municipal charter to the City of Buckhead City, do hereby certify that this bill is in compliance with the minimum standards required by Chapter 31 of Title 36 of O.C.G.A. This certificate is executed to conform to the requirements of Code Section 36-31-5 of the O.C.G.A.

So certified this ____ day of _____, 2023.

Honorable Randy Robertson
Senator, 29th District
Georgia State Senate

SPONSOR'S RATIONALE

The idea of Buckhead's de-annexation from the City of Atlanta was floated by disgruntled residents in 2008, and the concept arose again in 2016 during Mayor Kaseem Reed's last term in office.⁵ The rumblings continued as Keisha Lance Bottoms defeated Buckhead resident Mary Norwood in the 2017 Atlanta mayoral race, and momentum increased as crime and neighborhood concerns continued to rise.⁶

In January 2021, the Buckhead City Committee ("BCC") went public, tapping leaders and lobbyists to drive movement in the Georgia legislature.⁷ In March 2021, State Senator Brandon Beach and State Representative Todd Jones introduced cityhood bills in draft form at the end of the legislative session.⁸ By late October of the same year, BCC opened its campaign headquarters on Peachtree Road and subsequently filed a First Amendment lawsuit after the group was cited for alleged sign violations.⁹

On November 18, 2021, State Senator Beach pre-filed SB 324, a bill to incorporate the City of Buckhead City,¹⁰ which was co-sponsored by State Senators Clint Dixon, Greg Dolezal, Burt Jones, and Randy Robertson.¹¹ The next month, the Atlanta City Council voted to add a provision to a bond sale, deemed a "poison pill option," which allows the council to "create a special district for any areas that leave the boundaries of the city, enabling city officials to set up the proportionate amount of any assets or property severed by the change in boundaries."¹² Per the terms of the provision, Buckhead city would be required to pay Atlanta the amount due as a lump sum, although the poison pill would vanish if voters reject

⁵ Joe Parker, *The Rise and Fall of the Buckhead City Movement: An Updated Timeline*, BUCKHEAD.COM (Mar. 10, 2023), <https://www.buckhead.com/the-rise-and-fall-of-the-buckhead-cityhood-movement-a-timeline/>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ John Ruch, *State Sen. Brandon Beach (R-Alpharetta) Prefiles Cityhood Bill*, BUCKHEAD.COM (Nov. 18, 2021), <https://www.buckhead.com/brandon-beach-cityhood-bill/>.

¹¹ *2021-2022 Regular Session-S.B. 324, City of Buckhead City; incorporate*, GA. GEN. ASSEMB., <https://www.legis.ga.gov/legislation/60999> (last visited Dec. 19, 2023) [hereinafter S.B. 324 Status Sheet].

¹² Marcus K. Garner, *'Poison Pill' \$192M Buckhead Debt OKed by Atlanta Council*, PATCH.COM (Dec. 17, 2021), <https://patch.com/georgia/atlanta/poison-pill-deannexation-provision-written-atlanta-bonds>.

the de-annexation proposal.¹³ A few months later, Lieutenant Governor Geoff Duncan, president of the Georgia Senate, announced his opposition to the bill based on the Senate's passage of a \$100 million annual state tax credit allowing Georgians to direct taxes to support local law enforcement. Further, Lt. Gov. Duncan expressed that the new Atlanta Mayor Andre Dickens should have the opportunity to address violent crime before state legislators consider the de-annexation of the Buckhead neighborhood.¹⁴ Shortly after Duncan's announcement, House Speaker David Ralston expressed that without the support of both chambers, he was left to put the cityhood effort in "pause mode" until 2023.¹⁵

Despite the opening of a new Buckhead-based Atlanta Police Department precinct and a twelve percent year-over-year reduction in Buckhead neighborhood crime, cityhood supporters persisted.¹⁶

By February 2023, Senate Bills 113 and 114 were introduced, which called for "Buckhead residents to vote on de-annexation and the creation of the municipality on the 2024 ballot. Both bills were sponsored by lawmakers outside of the Buckhead area."¹⁷ Subsequently, the bills were approved by the Senate State and Local Governments Operations Committee, which "marked the first time that a Buckhead cityhood bill had advanced out of committee."¹⁸

Senator Randy Robertson ("Senator Robertson") of the 29th District sponsored Senate Bill 114 and companion Senate Bill 113¹⁹ in support of the

¹³ Order of Business for the Atlanta City Council, Virtual Special Call Meeting, Wednesday, Dec. 15, 2021, <https://atlantacityga.iqm2.com/Citizens/FileOpen.aspx?Type=1&ID=3122&Inline=True>.

¹⁴ Greg Bluestein, *Powerful GOP leader delivers blow to Buckhead cityhood*, THE ATLANTA JOURNAL-CONSTITUTION (Feb. 10, 2022), <https://www.ajc.com/politics/duncan-opposes-buckhead-cityhood-in-2022-pushes-anti-crime-measure/BHLVU3O3PNDTJHF34E5YUS5K2A/>.

¹⁵ Greg Bluestein, *State GOP leaders scuttle Buckhead secession push in 2022*, THE ATLANTA JOURNAL-CONSTITUTION (Feb. 11, 2022), <https://www.ajc.com/politics/state-gop-leaders-scuttle-buckhead-secession-push-in-2022/ZTS5CIQRH5G4HCQ5PQ72HEQKS4/>.

¹⁶ Tracey Amick Peer, *Atlanta Police Department opens new Buckhead precinct*, 11 ALIVE (June 29, 2022), <https://www.11alive.com/article/news/local/buckhead/atlanta-police-department-precinct-buckhead-village/85-37a54d90-335f-43b6-a622-bab54d99c146>.

¹⁷ Parker, *supra* note 5.

¹⁸ *Id.*

¹⁹ 2022-2023 Regular Session-S.B. 113, *Municipal Corporations; the transition of services and facilities from an existing municipality to a newly incorporated municipality; provide*, GA. GEN. ASSEMB., <https://www.legis.ga.gov/legislation/64116> (last visited Sept. 30, 2023).

de-annexation of the approximately 24-square mile Buckhead neighborhood from the City of Atlanta and the incorporation of the municipality as Buckhead City. While SB 113 addresses the transition of services and property from an existing municipality to a newly incorporated one, SB 114 provides the new city's charter, boundaries, and powers.

Senator Robertson argues that the needs of the Buckhead neighborhood have been largely ignored by the City of Atlanta, and accordingly, Buckhead residents desire the opportunity to vote to form its own community like other Georgia neighborhoods, such as Sandy Springs, Johns Creek, Eagles Landing, and Villa Rica, in order to effectively address community issues such as crime, infrastructure, waste management, and homelessness.²⁰ “It’s about color—green,” according to Senator Robertson. Buckhead residents are twenty percent of the City of Atlanta’s population yet provide forty percent of the city’s [property tax] revenue.²¹ Senator Robertson believes the City of Atlanta could have solved these issues, informing Georgia Senators that “[t]hey could’ve, but they didn’t, so we will.”²² Senator Robertson recognized the greater attention Buckhead has received from the current [Mayor Andre Dickens] administration but said, “The bar is low.”²³ Senator Robertson, a former law enforcement officer turned conservative Georgia Senator, whose Cataula residence is approximately 100 miles from the Buckhead neighborhood, attributes Buckhead’s community issues to the “elitist” politicians who believe they are not obligated to their constituents.²⁴ Senator Robertson states that all Buckhead City constituents ask for is an opportunity to vote, and this “boilerplate” legislation is the solution to their concerns.²⁵

Senator Ed Setzler (“Senator Setzler”) of the 37th District, along with three additional Georgia Senators—Senator Carden Summers (13th), Senator Matt Brass (28th), and Senator Colton Moore (53rd)—support Senator Robertson’s argument for self-governance and reiterate the importance of voter’s rights, freedom, and a representative government.²⁶ Senator Setzler

[hereinafter S.B. 113 Status Sheet].

²⁰ Senate Legislative Day 27 (pt. 2) – 2023 Session - 3/2/23, *Georgia State Senate*, VIMEO (Sept. 9, 2023), <https://vimeo.com/showcase/9076378?video=804000748>.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ Senate Legislative Day 27 (pt. 2) – 2023 Session - 3/2/23, *supra* note 20.

²⁶ *Id.*

argues Buckhead constituents are a minority among a larger city without the ability to affect change through a democratic process.²⁷ Senator Setzler claims that the *Fiscal Feasibility Analysis of a Proposed Buckhead City* (“Buckhead City Feasibility Study”)²⁸ shows that Buckhead City has the funding, an appropriate business model, and the civic capacity to move forward.²⁹ The Buckhead City Feasibility Study found “estimated revenues of \$203.5 million exceeded likely expenditures for the services identified to be provided, estimated at \$89.8 million, and therefore [concludes] that the City of Buckhead is likely fiscally feasible.”³⁰ In response to the opposition’s counterargument regarding legal issues raised by the de-annexation and incorporation of Buckhead City, Senator Setzler states that Buckhead being part of the City of Atlanta is “legally significant, but not determinative.”³¹ Further, he highlights the opposition’s use of “secession” as a pejorative term when discussing the Bill rather than the “de-annexation” of the Buckhead neighborhood from the City of Atlanta.³² Senator Setzler provides a historical reminder of the opposition to the Buckhead neighborhood’s annexation into the City of Atlanta in 1952 under then-Mayor William B. Hartsfield,³³ where Buckhead was joined by other areas of Atlanta in a racially motivated move to offset Atlanta’s growing Black population and political power.³⁴

Senator Greg Dolezal (“Senator Dolezal”) of the 27th District highlights crime concerns and reiterates that Georgia was just one vote away from defunding the police by \$70 million.³⁵ As a prior resident of Chicago, Senator Dolezal compared Atlanta’s crime rates to his former city: over the last decade, murder in Atlanta is up 450 percent, aggravated assault is up 92 percent, and a person is more likely to be a victim of a violent crime in Atlanta

²⁷ *Id.*

²⁸ VALDOSTA STATE UNIVERSITY CENTER FOR SOUTH GEORGIA REGIONAL IMPACT, *FISCAL FEASIBILITY ANALYSIS OF A PROPOSED BUCKHEAD CITY* (2021).

²⁹ Senate Legislative Day 27 (pt. 2) – 2023 Session - 3/2/23, *supra* note 20.

³⁰ VALDOSTA STATE UNIVERSITY CENTER FOR SOUTH GEORGIA REGIONAL IMPACT, *supra* note 28.

³¹ Senate Legislative Day 27 (pt. 2) – 2023 Session - 3/2/23, *supra* note 20.

³² *Id.*

³³ *Id.*

³⁴ J.D. Capelouto & Jennifer Peebles, *What would ‘Buckhead City’ look like? We crunched the numbers*, ATLANTA JOURNAL-CONSTITUTION (Apr. 25, 2021), <https://www.ajc.com/news/atlanta-news/what-would-buckhead-city-look-like-we-crunched-the-numbers/WRIYJBY2PBCEJFKWTFK2YDWCXYA/>.

³⁵ Senate Legislative Day 27 (pt. 2) – 2023 Session - 3/2/23, *supra* note 20.

than in Chicago.³⁶ Senator Dolezal emphasized the sprouting of cottage industries resulting from Buckhead safety issues: gas valet due to car theft at the pump, K9 units to sniff for guns at Lenox Mall, and metal detectors for the entry of major retailers.³⁷ Senator Dolezal admits technicalities exist but argues that Buckhead residents are living in a “war zone” and they can no longer wait for the next politician to fix it.³⁸

Atlanta City Council Member Mary Norwood, who represents District 7, which includes the western portion of Buckhead, remained notably neutral on the Buckhead City movement, yet when asked about the cause for Buckhead residents entertaining the idea of forming their own city government Norwood states, “Many assume the reason is crime because that is what they have heard. But there is a great deal more to it than that. It boils down to many years of Buckhead’s neglect by the City of Atlanta’s government.”³⁹ Norwood cites “suffocating traffic, streets that are in the second-worst condition of all Council Districts, flooding and an influx of new residents because the neighborhood has accepted a disproportionate share of ‘growing Atlanta!’”⁴⁰ Norwood argues that “Buckhead is not getting what we need and deserve” and urges “[t]ime is of the essence.”⁴¹ City of Atlanta Chief Operating Officer Lisa Gordon responded to Norwood’s claims in a five-page letter to “shed light on several of the specific items [Norwood] highlighted which lacked context or accuracy.”⁴²

The momentum of Pro-Buckhead City constituents was aided by Georgia Lieutenant Governor and State Senate President Burt Jones (“Lt. Governor Jones”). Lt. Governor Jones told the AJC, “I’m not going to shut down the [Buckhead City] conversation if a senator brings it forward because they have legitimate issues. We’d be doing ourselves a disservice if we didn’t allow the process to try to play out.”⁴³ The Lt. Governor’s support

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ Stephanie Pagonis, *Atlanta suburb says residents not getting what they ‘need and deserve’*, FOX NEWS (Sept. 23, 2022), <https://www.foxnews.com/us/buckhead-secession-leader-ritzy-atlanta-suburb-says-residents-not-getting-what-they-need-deserve>.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Letter from Lisa Gordon, Chief Operating Officer, City of Atlanta, to Mary Norwood, Council Member, City of Atlanta (Sept. 13, 2022), <https://roughdraftatlanta.com/wp-content/uploads/2022/09/2022.09.13-Letter-to-CM-Norwood-Dist-8-Services-2.pdf>.

⁴³ Greg Bluestein, *Burt Jones charts his course as Georgia’s new No. 2*, ATLANTA JOURNAL-CONSTITUTION (Jan. 26, 2023), <https://www.ajc.com/politics/politics-blog/burt-jones->

was a change from the opposition received from 2022 state legislative session leaders, then-Lieutenant Governor Geoff Duncan and late House Speaker David Ralston, who announced they would not take up the issue of Buckhead City in the Georgia legislature to allow then newly elected Atlanta Mayor Andre Dickens time to address violent crime.⁴⁴

Led by volunteer CEO Bill White (“White”), The Buckhead City Committee (“BCC”), formerly the Buckhead Exploratory Committee, is “a volunteer group of Buckhead residents, business owners and supporters determined to create Buckhead City, Georgia.”⁴⁵ BCC argues that Buckhead City will be better equipped than the City of Atlanta to address Buckhead’s needs consisting of, but not limited to, an effective police force to “eradicate crime,”⁴⁶ fast emergency response times, city services commensurate with taxes paid, a well-maintained infrastructure, direct communication with municipal leadership, control over zoning, parks, and recreation, active engagement in neighborhood improvement endeavors, and better schools for children.⁴⁷ BCC states it is committed to honoring obligations related to Atlanta’s publicly issued bonds, like the Mercedes-Benz stadium, via a pro-rata portion of the debt.⁴⁸ BCC cites the Buckhead City Feasibility Study⁴⁹ finding that Buckhead City could function with over \$113 million in surplus resulting after annual revenue of approximately \$203 million and annual expenses of approximately \$90 million.⁵⁰ Thus, Buckhead City could easily afford to establish its own police department to address public safety, as well as reinvest funds directly in the Buckhead community for zoning, parks and recreation, and more.⁵¹ Based upon the results of the study, BCC argues that the incorporation of Buckhead City would mean only a six percent decrease in Atlanta’s total operating budget of \$3.44 billion.⁵² BCC states the de-

charts-his-course-as-georgias-new-no-2/FKEYRQHS6JELJE34PBA6XYEMBE/.

⁴⁴ Parker, *supra* note 5.

⁴⁵ BUCKHEAD CITY COMMITTEE, <https://www.becnow.com/about> (last visited Oct. 1, 2023).

⁴⁶ Christina Maxouris, Ryan Young, & Maria Cartaya, *A ‘Covid crime wave’ is one reason these residents want to break away from Atlanta – but critics say a split would be devastating for the city*, CNN (June 8, 2021), <https://www.cnn.com/2021/06/07/us/atlanta-buckhead-city-movement/index.html>.

⁴⁷ BUCKHEAD CITY COMMITTEE, *supra* note 45.

⁴⁸ *Id.*

⁴⁹ VALDOSTA STATE UNIVERSITY CENTER FOR SOUTH GEORGIA REGIONAL IMPACT, *supra* note 28.

⁵⁰ BUCKHEAD CITY COMMITTEE, *supra* note 45.

⁵¹ *Id.*

⁵² *Id.*

annexation of Buckhead offers numerous benefits to the City of Atlanta and Buckhead City will offset the loss of property taxes by maintaining funding for Atlanta Public Schools, city services, libraries, water and sewer utilities, and the Atlanta airport. Buckhead City would continue to utilize, and fund through taxes and fees, the Atlanta Public Schools and city services.⁵³ BCC argues that through the de-annexation and incorporation of Buckhead City, the City of Atlanta's population would decrease by twenty percent, thereby reducing Atlanta's responsibility for police, roads, and parks, and "a smaller Atlanta... a smaller anything... is easier to manage."⁵⁴

OPPOSITION'S RATIONALE

Opponents of SB 114 contend that the de-annexation and incorporation of Buckhead City bring complex issues and legal complications beyond proponents' focus on voting rights and representative government.⁵⁵

Senator Josh McLaurin ("Senator McLaurin") of the 14th District calls the proposed legislation "dangerous" and warns that Georgia legislators are "playing with fire."⁵⁶ Senator McLaurin, a Buckhead resident and a lawyer who represented Sandy Springs and Johns Creek in their successful de-annexation and incorporation efforts, argues that Georgia has never de-annexed a city this way, particularly in that other communities were not part of the City of Atlanta and did not face the same issues.⁵⁷ Senator McLaurin advises that the proposed legislation will not accomplish what advocates say it will.⁵⁸ For example, he argues that SB 114 would likely result in the election of Democrats to Mayor and City Council positions, whom the voters pushing for Buckhead City would not want in charge.⁵⁹ Further, this legislation would negatively impact schools and bonds.⁶⁰ Senator McLaurin contends that using popular democracy rhetoric to cover practical obstacles is an "abdication of legislative duty," and he encourages legislators to "hold

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Senate Legislative Day 27 (pt. 2) – 2023 Session - 3/2/23, *supra* note 20.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ Senate Legislative Day 27 (pt. 2) – 2023 Session - 3/2/23, *supra* note 20.

the line” by opposing the bill.⁶¹ Senator McLaurin asserts that the system of representative government in place has functioned the way it should.⁶²

Senator Frank Ginn (“Senator Ginn”) of the 47th District recommends that Buckhead constituents follow the successful engineering approach of Sugar Hill, Georgia, to resolve community issues.⁶³ Senator Ginn highlighted the support for the Buckhead community in the current leadership, such as Mayor Dickens and Lt. Governor Jones, and encouraged Buckhead constituents to hold the City of Atlanta accountable to resolve issues like Sugar Hill did for their own city.⁶⁴ Alternatively, moving forward with this legislation, Senator Ginn warns, “will result in the death of the City of Atlanta.”⁶⁵

Senator Sonya Halpern (“Senator Halpern”) of the 39th District questioned legislators about the need to mess with Atlanta’s success, noting the strength of Atlanta’s economy with \$400 billion in economic output.⁶⁶ Atlanta is home to 16 Fortune 500 companies, while Georgia is the number one state to do business, the number one state for black-owned businesses, home to a \$4 billion film industry, home to one of the biggest tech hubs in the country, home to top-ranked colleges and universities, and host of numerous sporting events like the 2026 World Cup.⁶⁷ Senator Halpern argues that this legislation would also be problematic in that it would likely shift a number of Atlanta Public Schools students to Fulton County Schools.⁶⁸ Furthermore, Senator Halpern, as a Buckhead resident, countered Buckhead City proponent’s democracy argument: “Imagine if legislators who do not represent your city or county ...and whose insight came from a small group of people in neighborhoods in the city were the ones proposing to split up your city...the same thing could happen to your city next, where you would be stepped on and stepped over. And your delegation would be disregarded.”⁶⁹

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Senate Legislative Day 27 (pt. 2) – 2023 Session - 3/2/23, *supra* note 20.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ Stephen Fowler, *Buckhead cityhood bill that ‘makes no sense’ fails in the Senate*, GPB (Mar. 3, 2023), <https://www.gpb.org/news/2023/03/03/buckhead-cityhood-bill-makes-no-sense-fails-in-the-senate>.

Attorney and former Atlanta Board of Education member, Senator Jason Esteves (“Senator Esteves”) of the 6th District who represents Buckhead constituents and 60% of the proposed Buckhead City boundaries, expands upon problems resulting from the bill.⁷⁰ Senator Estevez notes that public safety concerns are not unique to the Buckhead community as they are shared across Georgia.⁷¹ Furthermore, Senator Esteves argues that there is no plan for the approximately 5,000 children who would no longer be eligible for Atlanta Public Schools because there is no legal mechanism to resolve the education challenges, resulting in the loss of programs, teachers, and student mass.⁷² Next, Senator Esteves states that the \$6 billion in revenue bonds for the airport, water/sewer, and the Beltline are court-approved and cannot be changed by this legislation.⁷³ Bondholders can call the debt or sue,⁷⁴ which would break the City of Atlanta’s budget leading to an increase in taxes and requiring a bailout from the state, ultimately resulting in higher taxes for all in Georgia.⁷⁵ Senator Esteves cautions that the school and existing debt obligations create Constitutional issues,⁷⁶ referring to State of Georgia Executive Counsel David B. Dove’s memorandum outlining eleven questions that must be resolved as they pertain to the Constitutionality of Senate Bills 113 & 114.”⁷⁷ Senator Esteves noted that Buckhead City proponents have had two years and the resources to resolve important questions pertaining to this legislation, yet the questions remain unanswered.⁷⁸ He says progress has been made, and Atlanta should stay united.⁷⁹

Ruchi Patel, a lobbyist for the Georgia Municipal Association, cautioned that should the Buckhead City effort prevail, “[c]redit ratings and the municipal bond markets would be severely harmed in the state of

⁷⁰ Senate Legislative Day 27 (pt. 2) – 2023 Session - 3/2/23, *supra* note 20.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ Aleks Phillips, *Republicans Creating Buckhead City Could Trash Georgia’s Economy*, NEWSWEEK (Feb. 28, 2023), <https://www.newsweek.com/republicans-georgia-atlanta-buckhead-city-seceding-bond-market-1784316>.

⁷⁶ Senate Legislative Day 27 (pt. 2) – 2023 Session - 3/2/23, *supra* note 20.

⁷⁷ Memorandum from Executive Counsel David Dove to Senator Bo Hatchett, Senator Mike Hodges, and Governor’s Senate Floor Leaders (Feb. 28, 2023) <https://s3.documentcloud.org/documents/23693066/kempbuckheadmemo.pdf>.

⁷⁸ Senate Legislative Day 27 (pt. 2) – 2023 Session - 3/2/23, *supra* note 20.

⁷⁹ *Id.*

Georgia.”⁸⁰ After the Eagles Landing neighborhood voted and failed in its de-annexation effort from Stockbridge in 2018, “bond rating agencies warned that splitting up cities was a risk for investors in all Georgia city bonds.”⁸¹

Senator John Albers (“Senator Albers”) of the 56th District agrees with Senator Esteves regarding the increased risks to Atlanta’s municipal bond rating leading to tax increases and also that progress that has been made.⁸² Senator Albers asserts that while issues will not be resolved overnight, new Atlanta leadership and resources include an effective Mayor, one of the finest police chiefs, a new state-of-the-art police training center, a new task force, and greater collaboration with the Fulton Sheriff, Atlanta Police, the FBI, and more.⁸³ Senator Albers avers that contrary to what proponents may read on social media, crime in Buckhead’s Zone 2 is down an aggregate of 16.29 percent, which includes a decrease in violent crimes such as murder, rape, and robberies.⁸⁴ Further, Senator Albers argues that Buckhead City is unpopular, citing 61 percent of constituents, the Governor’s office, and major real estate holders do not want the de-annexation of Buckhead from the City of Atlanta.⁸⁵

Mayor Andre Dickens took prompt action to counter cityhood by attending local meetings, joining opposition events, and launching plans for a Buckhead-based mini police precinct.⁸⁶ Mayor Dickens refers to Atlanta as a “group project,”⁸⁷ and along with his administration remains committed to a united Atlanta as “one city, with one bright future.”⁸⁸ “Michael Smith, a spokesman for Atlanta Mayor Andre Dickens, said City Hall ‘will continue to work with the Senate to put an end to this legislation before it has disastrous consequences.’”⁸⁹

⁸⁰ Associated Press, *Bill that could let Buckhead split from Atlanta advances*, GPB (Feb. 27, 2023), <https://www.gpb.org/news/2023/02/27/bill-could-let-buckhead-split-atlanta-advances>.

⁸¹ *Id.*

⁸² Senate Legislative Day 27 (pt. 2) – 2023 Session - 3/2/23, *supra* note 20.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Parker, *supra* note 5.

⁸⁷ Fowler, *supra* note 69.

⁸⁸ See Press Release, Mayor Andre Dickens, Mayor Andre Dickens Statement on Bipartisan Senate Vote Opposing De-annexation (Mar. 2, 2023), <https://www.atlantaga.gov/Home/Components/News/News/14589/>.

⁸⁹ Margaret Newkirk & Bloomberg, *Atlanta’s richest and whitest neighborhood is one step*

Governor Brian Kemp's administration expressed concern that the creation of Buckhead City could violate Georgia's constitution.⁹⁰ In a February 28, 2023, Memorandum, Executive Counsel David Dove urged lawmakers to address and resolve a list of eleven questions regarding the constitutional and statutory challenges posed by Senate Bills 113 & 114 that "may retailor the cloth of governance for Georgia's municipalities in ways that will ripple into a future of unforeseen outcomes."⁹¹ Questions posed include the impact on taxes, municipal bonds, students and schools, parks, and safety.⁹² Executive Counsel Dove believes these challenges should be "meaningfully addressed and resolved."⁹³ However, proponents of Buckhead City took no public action on such issues.⁹⁴

The Atlanta Board of Education unanimously opposed Buckhead City's push for cityhood, delivering a two-page resolution raising concerns about the significant uncertainties for the students, staff, and families of Atlanta Public Schools ("APS").⁹⁵ The issues identified by the Board of Education include the lack of a legal mechanism in state law for APS to collect tax revenue from a city outside the City of Atlanta and thus making the operation of Buckhead City school by APS untenable, the potential loss of \$250 million annually in school tax revenue, the issue that Georgia does not allow for the creation of any new school districts and therefore increasing uncertainty for students' local education agency, the likelihood for teacher tenure to be in jeopardy, along with additional concerns. The Atlanta Board of Education warned that "[f]ormation of a City of Buckhead City would have a disastrous impact on the entire school district."⁹⁶

closer to seceding and becoming its own city, FORTUNE (Feb. 28, 2023), <https://fortune.com/2023/02/28/atlanta-buckhead-secede-city/>.

⁹⁰ Nick Wooten, *Is proposed Buckhead City creation legal? Gov. Kemp's office raises concerns*, 11 ALIVE (Updated Mar. 2, 2023), <https://www.11alive.com/article/news/politics/is-proposed-buckhead-city-creation-legal-governor-kemp/85-c272e86b-6316-4c24-bb1d-03474d044922>.

⁹¹ Memorandum from Executive Counsel David Dove, *supra* note 77.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ Parker, *supra* note 5.

⁹⁵ Resolution, Atlanta Board of Education, *Resolution Expressing Opposition to Proposals to Create a City of Buckhead City*, (Feb. 7, 2022) [https://simbli.eboardsolutions.com/meetings/TempFolder/Meetings/Resolution%20Expressing%20Opposition%20to%20Creation%20of%20City%20of%20Buckhead%20City%20v3%20\(clean\)_1360196sxxgmabb4ir2upob54oehl4ox.pdf](https://simbli.eboardsolutions.com/meetings/TempFolder/Meetings/Resolution%20Expressing%20Opposition%20to%20Creation%20of%20City%20of%20Buckhead%20City%20v3%20(clean)_1360196sxxgmabb4ir2upob54oehl4ox.pdf).

⁹⁶ Jeff Amy, *Kemp questions letting Buckhead leave Atlanta as vote looms*, AP NEWS (Mar. 1, 2023) <https://apnews.com/article/atlanta-buckhead-city-georgia-brian-kemp-senate>

The North Atlanta Parents for Public Schools (“NAPPS”) shared the concern for Atlanta Public Schools, releasing a statement “strongly oppos[ing the] legislation and the movement behind it.”⁹⁷ NAPPS seeks to “ensur[e] that our city and our schools remain intact.”⁹⁸

As early as May 2021, the BCC was met with opposition by the newly emerged Committee for a United Atlanta⁹⁹ led by Linda Klein and Edward Lindsey.¹⁰⁰ “Leadership matters,” according to the Committee for a United Atlanta, consisted of “concerned residents communicating and educating on the dangers of separating portions of Buckhead from the City of Atlanta.”¹⁰¹ The group recognizes that issues such as violent crime and deteriorating city services must be addressed, and the group supports providing Mayor Dickens the opportunity to implement a plan to resolve the issues facing Buckhead.¹⁰² Allowing Buckhead to break from Atlanta “is a path fraught with uncertainty and will not fix the crime problem and other issues facing our community.”¹⁰³ Days after the Buckhead City Committee released a feasibility study showing the viability of Buckhead City,¹⁰⁴ the Committee for a United Atlanta released the Buckhead De-Annexation Fiscal Analysis¹⁰⁵ detailing the harm that a Buckhead secession would cause to Atlanta and the new Buckhead City.

The Committee for a United Atlanta points to a number of issues that would result: higher taxes; jeopardized economic momentum for the city, region, and state; instability and uncertainty in public education; and a lack of

badf8526584812bb498ea988652da530.

⁹⁷ Statement, North Atlanta Parents for Public Schools, *NAPPS Statement on Buckhead City*, (Nov. 23, 2021) <https://napps-aps.org/napps-news>.

⁹⁸ *Id.*

⁹⁹ Parker, *supra* note 5.

¹⁰⁰ COMMITTEE FOR A UNITED ATLANTA,

<https://www.committeeforaunitedatlanta.com/about> (last visited Oct. 28, 2023).

¹⁰¹ COMMITTEE FOR A UNITED ATLANTA, <https://www.committeeforaunitedatlanta.com/> (last visited Oct. 28, 2023).

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Marcus K. Garner, *Buckhead City Could Cost Atlanta Schools \$332 Million: Report*, PATCH (Sept. 20, 2021), <https://patch.com/georgia/buckhead/buckhead-cityhood-opposition-presents-analysis-decrying-secession>.

¹⁰⁵ KB ADVISORY GROUP, BUCKHEAD DE-ANNEXATION FISCAL ANALYSIS (AUG. 2021) [hereinafter FISCAL ANALYSIS], <https://static1.squarespace.com/static/60ad1429731b6a1179d5a5ba/t/6142492756ecc74b629ff3d8/1631734060061/Buckhead+De-Annexation+Fiscal+Impact.pdf>.

reduction in crime, even with the plan to hire 250 new Buckhead City police officers, because “arrests involving felonies and misdemeanors made in Buckhead City would continue to be prosecuted in the notoriously backlogged Fulton County courts by an overwhelmed and under-resourced district attorney’s office.”¹⁰⁶ District Attorney Fani Willis told the *Atlanta Journal-Constitution*, “[de-annexation] wouldn’t make any difference, none. They’ll all end up here. We work cases everywhere from Milton to Palmetto. It’s 15 cities now. It’ll just be 16.”¹⁰⁷ Committee for a United Atlanta warns,

“Issues regarding service of current debt and future debt, economic development disunity, substantial startup cost, the future of city parks, water and sewer costs, and reduced community services are all likely to be significant difficulties for the City of Atlanta, APS, and the remaining Buckhead area if a de-annexation were to move forward. Each would stand to lose financially, economically, and socially.”¹⁰⁸

Despite the cityhood movement’s momentum coming into the 2023 Legislative Session, the effort was defeated on March 2, 2023, in a 33-23 vote.¹⁰⁹ That same day, Senate Bill 113, the companion bill to S.B. 114, was tabled by the chamber.¹¹⁰

Following the failed vote, the Committee for a United Atlanta released a statement thanking supporters and recognizing the work ahead to resolve issues for the Buckhead community and a united City of Atlanta.¹¹¹ Meanwhile, for the Buckhead City proponents, the *Atlanta Journal-Constitution* reported that “In the wake of Governor Kemp’s stated opposition, Buckhead cityhood supporters are regrouping and considering new strategies as [Buckhead City Committee] leader Bill White departs

¹⁰⁶ Committee for a United Atlanta, *Frequently Asked Questions and Answers on the Buckhead City Issue*, (Oct. 28, 2023) <https://static1.squarespace.com/static/60ad1429731b6a1179d5a5ba/t/61e734ef868cdf4eb6f0c90b/1642542319709/Buckhead+City+FAQs+and+Dangers.pdf>.

¹⁰⁷ Patricia Murphy, *OPINION: The inconvenient truth, and unanswered questions, of ‘Buckhead City’*, ATLANTA JOURNAL-CONSTITUTION (Sept. 17, 2021), <https://www.ajc.com/politics/opinion-the-inconvenient-truth-and-unanswered-questions-of-buckhead-city/QIOY3ZFZYNHZHKNUUTF6XHRCCQ/>.

¹⁰⁸ Committee for a United Atlanta, *supra* note 106.

¹⁰⁹ S.B. 114 Status Sheet *supra* note 2.

¹¹⁰ Parker, *supra* note 5.

¹¹¹ Statement, Committee for A United Atlanta, *Statement on the Georgia Senate voting down SB 114*, (Mar. 3, 2023) <https://www.committeeforaunitedatlanta.com/news/statement-on-the-georgia-senate-voting-down-sb-114>.

Atlanta after the Buckhead cityhood group disbands.”¹¹² An email to BCC supporters said “the memo released by Governor Kemp’s Executive Counsel David Dove, changed everything.”¹¹³ The BCC alleged that “Governor Kemp and his team coordinated behind closed doors to kill the Buckhead City bills” and, therefore, “there is no path forward for a cityhood referendum while [Kemp] remains Governor until the end of his term in 2026.”¹¹⁴ “Although we had hoped for a different outcome... we will continue to work for the cityhood referendum in the future. We will never stop fighting for Buckhead residents’ right to vote, and we fully believe Buckhead should be its own city to keep us safe, protect zoning, invest in our infrastructure, and more.”¹¹⁵

As the Buckhead City movement appears to be on hold until the conclusion of Governor Kemp’s term in 2026, it remains to be seen whether the cityhood group will reunite in the coming years. The efforts and results of the Atlanta City Council and Mayor Dickens’ administration, changes in crime rates, resolutions to the proposed constitutional and statutory challenges from Governor Kemp’s office, improvements in infrastructure, and educational developments might be just a few factors influencing Buckhead cityhood supporters.

IMPLICATIONS IN GEORGIA

Senate Bill 113 is a companion bill to SB 114; therefore, legislation addressing the components of both bills would need to prevail in order to proceed with the de-annexation and creation of Buckhead City. Following such an occurrence, far-reaching implications for the state of Georgia would follow based upon the division of financial obligations and credit risks, resulting changes in demographics, the impact on Atlanta’s business reputation, the potential for influence on other neighborhoods, the possibility

¹¹² Atlanta Journal-Constitution (@ajc), X (FORMERLY TWITTER) (Apr. 5, 2023, 2:30 PM), <https://twitter.com/ajc/status/1643682484331192335>. In December 2024, Bill White was tapped by President Donald Trump to serve as ambassador to Belgium. See Greg Bluestein, *Trump has chosen ex-leader of the Buckhead cityhood push to be his ambassador to Belgium*, THE ATLANTA JOURNAL-CONSTITUTION (Dec. 14, 2024), <https://www.ajc.com/politics/trump-has-chosen-ex-leader-of-the-buckhead-cityhood-push-to-be-his-ambassador-to-belgium/R3ME76RT7ZCVZP5T3XQZEZQ2Y4/>.

¹¹³ Buckhead City, Georgia (@BuckheadCity), FACEBOOK (Mar. 6, 2023), <https://www.facebook.com/photo/?fbid=1263743637827878&set=pcb.1263743734494535>.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

of new related legislation, naming duplication or similarities across Georgia municipalities, and the perspectives as viewed through the historical lens of Buckhead's relationship with the City of Atlanta. These implications are in addition to those presented by the bill's supporters and opponents, such as potential changes in crime rates or possible instability and uncertainty in public education.

Division of Financial Obligations and Credit Risks

Because cities depend upon tax revenue from residents and businesses to pay off debt, reducing the number of taxable properties through de-annexation may strain a city's financial planning efforts.¹¹⁶ However, a de-annexation effort becomes more complicated and likely more litigious when existing municipal bond obligations are involved, which may impact the state at large.

When Eagle's Landing sought de-annexation from the city of Stockbridge in an effort to establish a city of its own, some land was to come from unincorporated parts of Henry County, yet the remaining land was to come from the existing city of Stockbridge.¹¹⁷ According to a Moody's Investor's Service report, the credit quality of all cities in Georgia is threatened by the proposal to create a City of Eagle's Landing.¹¹⁸ Analysts expressed concern that after Eagle's Landing is established, Stockbridge's obligation to pay its existing debt would remain, despite having a substantially smaller tax base from when the bonds were sold.¹¹⁹ As a result, Stockbridge may be forced to renegotiate its contractual obligations.¹²⁰ Moreover, this precedent would set the stage for other cities to lose portions of their tax base to newly created cities, thereby putting all Georgia cities at credit risk.¹²¹ The analysts noted that "[t]his legislation marks the first time

¹¹⁶ Taylor Croft, *Residents will have new path to exit cities*, ATLANTA JOURNAL-CONSTITUTION (Mar. 31, 2023), <https://www.ajc.com/neighborhoods/cobb/residents-will-have-new-path-to-exit-cities/ZCDERI5G7VEKFLDXGARCJNVARQ/>.

¹¹⁷ Ross Terrell, *Creation of Eagle's Landing Set to Rip Apart Stockbridge*, WABE (Mar 6, 2018), <https://www.wabe.org/creation-eagles-landing-set-rip-apart-stockbridge/>.

¹¹⁸ David Pendered, *All Georgia cities at credit risk from proposed City of Eagle's Landing*, Moody Reports, SAPORTA REPORT (May 15, 2018), <https://saportareport.com/all-georgia-cities-at-credit-risk-from-proposed-city-of-eagles-landing-moodys-says/sections/reports/david/>.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

that portions of a city are de-annexed in Georgia to create a new city. Stockbridge will likely file litigation challenging the de-annexation plan.”¹²²

In an interview with The Atlanta Journal-Constitution, Kennesaw State University economics Roger Tutterow said, “We always think about what implications there are for citizens and the businesses in a new municipality, but in [the] case [of Eagle’s Landing], there are third parties that have contractual relationships that can be impaired.”¹²³ Tutterow stated, “It will be an interesting legal question about where the obligation rests. Does it follow the people in the new municipality or not?”¹²⁴

As Moody’s analysts predicted, the city of Stockbridge filed a lawsuit in federal court, seeking a preliminary injunction until the court can hear the merits of the case. The city of Stockbridge claims that the de-annexation of parts of Stockbridge to establish Eagle’s Landing would lead to “very serious constitutional violations.”¹²⁵ Chris Anulewicz, an attorney representing Stockbridge, said the Eagle’s Landing cityhood effort “is really putting every municipality in the state of Georgia at risk because overnight their city can be gutted, their tax base can go away.”¹²⁶ This burden would negatively affect remaining residents, who would likely see increased taxes.

In addition to the city of Stockbridge’s lawsuit, Stockbridge officials sued Henry County in Henry County Superior Court to stop the vote,¹²⁷ albeit unsuccessfully, and a former Mayor of Stockbridge filed a complaint with the State Bar of Georgia against two attorneys involved in the fight.¹²⁸ Further, lending group Capital One Public Funding, the municipal bonding arm of Capital One, which held ownership of \$11.75 million of the principal amount of bonds issued in 2005 and 2006 to the city of Stockbridge, filed a motion for preliminary injunction in order to stop the vote that could create a new

¹²² *Id.*

¹²³ Leon Stafford, *Stockbridge municipal bondholder sues to stop Eagle’s Landing cityhood*, ATLANTA JOURNAL-CONSTITUTION (Aug. 20, 2018), <https://www.ajc.com/news/local-govt-politics/stockbridge-municipal-bondholder-sues-stop-eagle-landing-cityhood/5jdgDf5haKT9vDADQpYMIO/>.

¹²⁴ *Id.*

¹²⁵ Sam Whitehead, *City of Stockbridge Sues To Stop Eagle’s Landing Referendum*, WABE (Aug. 21, 2018), <https://www.wabe.org/city-of-stockbridge-sues-to-stop-eagles-landing-referendum/>.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

city of Eagle's Landing.¹²⁹ However, in *Capital One Pub. Funding, LLC v. Lunsford*, the court denied the lender's request.¹³⁰

Changing Demographics

According to the Atlanta Journal-Constitution, the new Buckhead City would comprise approximately 74 percent white residents, 11 percent black residents, and five percent Asian and Latino, with a median household income of \$140,500.¹³¹ As a result of a Buckhead de-annexation, the City of Atlanta's current median household income would fall to \$52,700 from \$60,000.¹³² Based on 2019 U.S. Census data, Atlanta without Buckhead would be 59 percent black (up from 50 percent with Buckhead), 31 percent white (down from 38 percent), four percent Asian (remaining consistent), and four percent Latino (remaining consistent).¹³³

Atlanta's Business Reputation

As business leaders value stability, some Atlanta constituents are concerned that even talk about neighborhood de-annexation may restrict future investment in the Atlanta market, thereby impacting growth and development, job opportunities, and Atlanta's reputation.¹³⁴ Others believe a de-annexation would give the community greater control over factors that impact businesses, such as city services and crime reduction.

Influence on Other Neighborhoods

Does division beget more division? Beyond the debate regarding non-resident legislators launching legislative cityhood efforts for other districts, some Atlantans believe de-annexation efforts may significantly influence

¹²⁹ *Id.*

¹³⁰ *Capital One Pub. Funding, LLC v. Lunsford*, No. 1:18-CV-3938-LMM, 2018 U.S. Dist. LEXIS 230470 (N.D. Ga. Oct. 19, 2018).

¹³¹ J.D. Capelouto & Jennifer Peebles, *What would 'Buckhead City' look like? We crunched the numbers*, ATLANTA JOURNAL-CONSTITUTION (Apr. 25, 2021), <https://www.ajc.com/news/atlanta-news/what-would-buckhead-city-look-like-we-crunched-the-numbers/WRIYJBY2PBCEJFKWTFK2YDWCXYA/>.

¹³² *Id.*

¹³³ *Id.*

¹³⁴ Jim Durrett, President and CEO of The Buckhead Coalition, *Opinion: A united Atlanta is the best way forward*, ATLANTA JOURNAL-CONSTITUTION (May 1, 2021), <https://www.ajc.com/opinion/opinion-a-united-atlanta-is-the-best-way-forward/5IXG6Y5UF5DQ5J6EXLHLXBU22A/>.

other Georgia cities. Constituents across multiple Georgia neighborhoods have sought de-annexation, such as South Fulton, Brookhaven, Tucker, Johns Creek, Sandy Springs, Eagles Landing, Villa Rica, Sugar Hill, and Mableton. However, “[t]he Mableton secession movement... might be the first to try to de-annex from a city that hasn’t even been formed yet.”¹³⁵ On November 8, 2022, voters approved the incorporation of the city of Mableton, launching the new municipality’s own department for planning, zoning, and code enforcement; parks; and trash pickup.¹³⁶ However, during the 2023 legislative session, state Representatives worked on a de-annexation bill for certain parts of the newly formed city, although those efforts were unsuccessful.¹³⁷

Conversely, the city of Smyrna has expanded with the annexation of parcels at Pebblebrook Road and the communities of Heritage Mill, Vikings Brooke, and Buckland Oaks.¹³⁸ Constituents cited property values, established infrastructure, school zoning, and access to emergency services as some of the reasons for the interest in annexation.¹³⁹

New Legislation

Annexation and de-annexation are governed by O.C.G.A. Title 36, Chapter 36. O.C.G.A. § 36-36-51 provides the public policy framework for Georgia’s municipal corporations, which includes providing local government services and ensuring the health, safety, and welfare of persons in areas included within the municipal boundaries and providing for the protection of property in areas being used primarily for residential, commercial, industrial, and institutional purposes.¹⁴⁰ Further, the policy

¹³⁵ Brentin Mock, *Residents of Suburban Atlanta’s Newest City Are Already Trying to Secede*, BLOOMBERG (Jan. 24, 2023), <https://www.bloomberg.com/news/articles/2023-01-24/atlanta-suburbs-residents-want-to-secede-from-new-city-of-mableton>.

¹³⁶ Taylor Croft, *Mableton de-annexation efforts fail at state Capitol*, ATLANTA JOURNAL-CONSTITUTION (Mar. 20, 2023), <https://www.ajc.com/neighborhoods/cobb/mableton-de-annexation-efforts-fail-at-state-capitol/MHESJV4HDFDIZJGLKUHMQH5DQ/>.

¹³⁷ *Id.*

¹³⁸ Arielle Robinson, *Smyrna approves Pebblebrook annexation, first redistricting charter amendment, and townhome code amendments*, COBB COUNTY COURIER (Sept. 20, 2022), <https://cobbcountycourier.com/2022/09/smyrna-approves-pebblebrook-annexation-first-redistricting-charter-amendment-and-townhome-code-amendments/>.

¹³⁹ Jake Busch, *Mableton cityhood movement drives two subdivisions into the arms of Smyrna*, MARIETTA DAILY JOURNAL (July 28, 2022), <https://www.yahoo.com/news/mableton-cityhood-movement-drives-two-223700803.html>.

¹⁴⁰ O.C.G.A. § 36-36-51.

includes serving the economic progress of the state and the well-being of its urban citizens through the orderly growth of municipal corporations in accordance with the standards established by the General Assembly.¹⁴¹ Moreover, the procedure for de-annexation is governed by O.C.G.A § 36-36-22.¹⁴²

During the 2023-24 Regular Session, Georgia legislators passed House Bill 374, thereby providing a new pathway for residents on the outskirts of an existing city who desire de-annexation.¹⁴³ Prior to this legislation, cities held the power to veto a de-annexation request; however, HB 374 removes that power.¹⁴⁴ Yet, in response to concerns about the bill's impact on tax revenues and municipal bond ratings, cities with outstanding general obligation and revenue bonds are ineligible for de-annexation via this method.¹⁴⁵

Naming Duplication: A Tale of Two Buckheads

In a city with multiple streets named Peachtree, would two cities with the same name be problematic? Residents of Buckhead, Georgia, say yes. Buckhead is not only a neighborhood within the City of Atlanta referenced in Senate Bill 114, but Buckhead is also an existing town in Georgia, located about 65 miles east of Atlanta in Morgan County.¹⁴⁶ In December 2021, Buckhead, Georgia, Mayor Drew Miller told the Atlanta Journal-Constitution, “We don’t approve of ‘Buckhead’ in their name because that is our unique name and we don’t want anybody else to use it.”¹⁴⁷ Miller added, “We had it first and we’ve been around longer.”¹⁴⁸ Residents of the original Buckhead said they “routinely interact with confused people sending mail, calling for directions, ... arriving at city hall when a GPS device has

¹⁴¹ *Id.*

¹⁴² O.C.G.A. § 36-36-22.

¹⁴³ *2023-2024 Regular Session-H.B. 374, Local government; municipal deannexation; repeal certain provisions*, GA. GEN. ASSEMB., <https://www.legis.ga.gov/legislation/64285> (last visited Dec. 19, 2023) [hereinafter H.B. 374 Status Sheet].

¹⁴⁴ Croft, *supra* note 116.

¹⁴⁵ *Id.*

¹⁴⁶ Patricia Murphy, *OPINION: A city called ‘Buckhead’? There’s already one of those.*, ATLANTA JOURNAL-CONSTITUTION (Dec. 17, 2021), <https://www.ajc.com/politics/opinion-a-city-called-buckhead-theres-already-one-of-those/CCMXII3XPRCWLDPW4JNNOEQ72A/>.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

inadvertently sent them to Buckhead, Ga.” as well as with individuals seeking business licenses.¹⁴⁹ While no law in Georgia prevents two cities from having the same name, it has never been done in the state before.¹⁵⁰

Duplicate names are more common in the northeastern United States. For example, as of 2016, the state of New Jersey had 75 municipalities that shared the same 33 monikers.¹⁵¹ New Jersey Planning Officials list 566 municipalities for the state with the local name, the legal name, and the county for each.¹⁵² New Jersey offers five types of municipal governments: borough, city, town, township, and village, and there is no territory that is not part of an incorporated municipality.¹⁵³ Each of the five types of New Jersey municipalities has unique forms of government.¹⁵⁴ Alternatively, under Georgia law, the words “city,” “town,” “municipality,” or “village” shall be construed as synonymous and held to mean a municipal corporation as defined by statutory law and judicial interpretation.¹⁵⁵

Historical Context

The impact of Senate Bill 114, or a subsequent Buckhead cityhood bill, will have on Georgia would be shaped by recent cityhood efforts and the historical relationship between Buckhead and the City of Atlanta. “The largest annexation in Atlanta history happened in 1952 with the addition of over 50,000 acres of land, including Buckhead.”¹⁵⁶ The annexation of Buckhead and other Atlanta suburbs “was a decade-long effort that failed three times before becoming a reality.”¹⁵⁷ In the 1940s, Mayor William B. Hartsfield “desired a larger metropolis because he believed population and

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ Sergio Bichao, *NJ Has So Many Municipalities, 75 of Them Have To Share Names*, NEW JERSEY 101.5 (Aug. 6, 2016), <https://nj1015.com/nj-has-so-many-municipalities-75-of-them-have-to-share-the-same-names/>.

¹⁵² New Jersey Planning Guide, <https://www.njpo.org/local-town-names> (last visited Dec. 20, 2023).

¹⁵³ Wikipedia, https://en.wikipedia.org/wiki/Local_government_in_New_Jersey (last visited Dec. 20, 2023).

¹⁵⁴ New Jersey State League of Municipalities, <https://www.njlm.org/644/Forms-of-Municipal-Government---New-Jers> (last visited Dec. 20, 2023).

¹⁵⁵ O.C.G.A. § 36-30-1.

¹⁵⁶ Sophia Dodd, *Buckhead Annexation*, ATLANTA HISTORY CENTER (Sept. 12, 2022), <https://medium.com/theundercurrent/buckhead-annexation-c2b5a5ed4d48>.

¹⁵⁷ *Id.*

geographic growth would bring prosperity and put Atlanta on the national stage.”¹⁵⁸

As businesses and professionals migrated from the city to the suburbs, Hartsfield recognized that the inner city could be dominated by the labor vote, which had exhibited signs favoring his opponents, Charlie Brown and Roy LeCraw.¹⁵⁹ Determined to capture the votes of the well-to-do population concentrated in the Buckhead area, Hartsfield was strategic and patient in his annexation goals.¹⁶⁰ “He took his troubles philosophically, however, once telling a “Woman of the Year” audience, “I have learned that to be a good mayor you must follow three principles: first, don’t take yourself too seriously; two, don’t bite off more than you can chew; and three, *don’t bother Buckhead.*””¹⁶¹

In a letter dated January 7th, 1943, Hartsfield expanded upon the political, economic, and racial motivations for the annexation of Buckhead and other areas into the City of Atlanta: Based upon the findings from a set of tax studies, Hartsfield advised:

“[W]e can truthfully state and prove that the congested areas of Buckhead and Druid Hills, taking them as a whole, actually pay more for the privilege of living outside, with less service...

...This annexation movement is not for revenue purposes at all. It is a movement for better government. We want voters, not money. At the same time we can perform the city services cheaper than the county.

But the most important thing to remember, cannot be publicized in the press or made the subject of public speeches.

Our negro population is growing by leaps and bounds. They stay right in the city limits and grow by taking more white territory in Atlanta. Our migration is good, white, home-owning citizens.

With the Federal government insisting on political recognition of negroes in local affairs, the time is not far distant when they

¹⁵⁸ *Id.*

¹⁵⁹ HAROLD H. MARTIN, WILLIAM BERRY HARTSFIELD MAYOR OF ATLANTA, 25, (The University of Georgia Press, 2010).

¹⁶⁰ *Id.* at 25-26.

¹⁶¹ W.B.H. to Woman of the Year Dinner, January 21, 1944.

will become a potent political force in Atlanta if our white citizens are just going to move out and give it to them.

This is not intended to stir race prejudice because all of us want to deal fairly with them, but do you want to hand them political control of Atlanta, either as a majority or a powerful minority vote?

This question involves the future of our City. Shall it continue to grow and keep pace with other cities, or shall we sink into the doldrums of civic indifference and selfishness?"¹⁶²

In 1950, following prior failed attempts at annexation, the idea was rebranded the "Plan of Improvement," ultimately voted into law in 1951, and took effect on January 1, 1952.¹⁶³

"[T]he Plan of Improvement was the most innovative change in Atlanta's municipal government in half a century. It eliminated costly duplication of city and county services. The city was to furnish parks and fire and police services; the county would look after matters of health and welfare, assessing and collecting taxes for both governmental units. All functions of the two governments, so often competitive and squabbling in the past, would be coordinated, except the school systems, which would remain separate.

As satisfying to Hartsfield as the realignment of functions was the element of expansion. His domain had tripled in size, to 118 square miles, and some hundred thousand new citizens had come under his benign jurisdiction. Albert Riley, in the *Journal and Constitution* of January 1, 1952, reflected in his prose the warm glow of pride and happiness that the mayor felt. "In one great stride," said Riley, "the city broke the rusty chains of corporate limits that had restricted its growth for twenty years. It was one of the really great moments in Atlanta's history, comparable almost to the city's rising from the smoldering ashes Sherman left behind him in 1864." "¹⁶⁴

In the decades that followed, Buckhead experienced dramatic growth and transformation alongside real estate projects such as Lenox Square,

¹⁶² Dodd, *supra* note 156.

¹⁶³ Martin, *supra* note 159, at 85.

¹⁶⁴ *Id.* at 85-86.

Phipps Plaza, Tower Place, the Ritz Carlton [now The Whitley], and Buckhead Village, to name a few.¹⁶⁵ In the 1960s, *Fortune* magazine described Buckhead as “the top encampment of business executives in the Southeast,” and in 2018, *The Wall Street Journal* touted Buckhead as “a major commercial and financial center of the Southeast.”¹⁶⁶ According to a 2021 *Atlanta Magazine* article, 44 percent of Atlanta’s population growth since the year 2000 has been in Buckhead, and during that time, Buckhead has grown at twice the rate of Atlanta.¹⁶⁷ Additionally, over half of all households in Buckhead earn \$100,000 annually, 79 percent of Buckhead residents have a four-year college degree, 93 percent of workers who commute to Buckhead do not live in the area, the number of multi-family housing units doubled between 2000 and 2020 (adding an average of 770 new units per year), and there are 15 streets in Buckhead that include the name “Peachtree.”¹⁶⁸

In the meantime, many Atlantans are curious whether the Buckhead cityhood movement has reached its end. In October 2023, Mayor Andre Dickens told young Buckhead Republicans that he hopes the issue will not come up again. “I know there may be individuals in the room that participated in that one way or another. I understand the sentiment of it. But I really want us to know that when we work together to solve problems, good things happen.”¹⁶⁹ Mayor Dickens added, “My hope is that before someone says, ‘Let’s break the city apart,’ people say, ‘Let’s talk to that mayor.’”¹⁷⁰

¹⁶⁵ Hirsh Real Estate Group – Buckhead.com, *The History of Buckhead*, BUCKHEAD.COM (2019), <https://www.buckhead.com/history/>.

¹⁶⁶ Atlanta Magazine Custom Media, *27 facts to know about the community of Buckhead*, ATLANTA MAG. (Feb. 21, 2021), <https://www.atlantamagazine.com/article/26-facts-to-know-about-the-community-of-buckhead/>.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ Riley Bunch, *Inside City Hall: Is this the end of the Buckhead cityhood movement?*, THE ATLANTA JOURNAL-CONSTITUTION (Oct. 23, 2023), <https://www.ajc.com/news/atlanta-news/inside-city-hall-is-this-the-end-of-the-buckhead-cityhood-movement/6YMKRVYZNJA2RO5ABYK5VVROC4/>.

¹⁷⁰ *Id.*

LEGISLATIVE GENEALOGY

Senate Bill 114 is the progeny of Senate Bill 324,¹⁷¹ Senate pre-filed on November 18, 2021, and Senate Bill 618,¹⁷² which was entered into the Senate Hopper on March 11, 2023. Senate Bill 114 was entered into the Senate Hopper on February 7, 2023.¹⁷³ Senate Read and Referred on February 8, 2023.¹⁷⁴ Senate Committee favorable reported by substitute on February 28, 2023.¹⁷⁵ Senate second readers was on March 1, 2023.¹⁷⁶ Senate third readers was on March 2, 2023.¹⁷⁷ Senate lost on March 2, 2023.¹⁷⁸

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¹⁷¹ S.B. 324 Status Sheet, *supra* note 11.

¹⁷² 2021-2022 Regular Session-S.B. 618, *City of Buckhead City; Incorporate*, GA. GEN. ASSEMB., <https://www.legis.ga.gov/legislation/62773> (last visited Oct. 29, 2023) [hereinafter S.B. 618 Status Sheet].

¹⁷³ S.B. 114 Status Sheet, *supra* note 2.

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ S.B. 114 Status Sheet, *supra* note 2.