

## **NOTICE OF PROPOSED CHARTER AMENDMENT**

Pursuant to O.C.G.A. § 36-35-3(b) (1), notice is hereby given that the City Commission of the City of Decatur, Georgia will consider amending the Charter of the City of Decatur, Georgia for the purpose of substituting gender-neutral pronouns and terms within Sections 3.10, 3.11, 3.15, 3.16, 3.17, 3.21, 4.10, 4.11, 4.12, 4.13, 4.15, 4.16, 4.17, 5.10, 5.11, 6.11, 6.12, 7.11, 8.11 and 8.12. The proposed amendment will be considered at the City Commission's regular meetings on October 3, 2022 and October 17, 2022. Meetings of the Decatur City Commission are held at 7:30 p.m. in the City Commission Meeting Room, Decatur City Hall, 509 N. McDonough Street, Decatur, Georgia 30030. A copy of the proposed amendment is on file in the office of the City Clerk and in the office of the Clerk of Superior Court of DeKalb County for the purpose of examination and inspection by the public.

West's Code of Georgia Annotated

Title 36. Local Government (Refs & Annos)

Provisions Applicable to Municipal Corporations Only

Chapter 35. Home Rule Powers (Refs & Annos)

Ga. Code Ann., § **36-35-3**

## § **36-35-3**. Home rule for municipalities

Currentness

(a) The governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution or any charter provision applicable thereto. Any such charter provision shall remain in force and effect until amended or repealed as provided in subsection (b) of this Code section. This Code section, however, shall not restrict the authority of the General Assembly, by general law, to define this home rule power further or to broaden, limit, or otherwise regulate the exercise thereof. The General Assembly shall not pass any local law to repeal, modify, or supersede any action taken by a municipal governing authority under this Code section, except as authorized under [Code Section 36-35-6](#).

(b) Except as provided in [Code Section 36-35-6](#), a municipal corporation may, as an incident of its home rule power, amend its charter by following either of the following procedures:

(1) Municipal charters may be amended by ordinances duly adopted at two regular consecutive meetings of the municipal governing authority, not less than seven nor more than 60 days apart. A notice containing a synopsis of the proposed amendment shall be published in the official organ of the county of the legal situs of the municipal corporation or in a newspaper of general circulation in the municipal corporation once a week for three weeks within a period of 60 days immediately preceding its final adoption. The notice shall state that a copy of the proposed amendment is on file in the office of the clerk or the recording officer of the municipal governing authority and in the office of the clerk of the superior court of the county of the legal situs of the municipal corporation for the purpose of examination and inspection by the public. The recording officer of the municipal governing authority shall furnish anyone, upon written request, a copy of the proposed amendment. No amendment under this paragraph shall be valid to change or repeal an amendment adopted pursuant to a referendum as provided in paragraph (2) of this subsection or to change or repeal a local Act of the General Assembly ratified in a referendum as provided in paragraph (2) of this subsection or to change or repeal a local Act of the General Assembly ratified in a referendum by the electors of the municipal corporation unless at least 12 months have elapsed after such referendums. No amendment under this paragraph shall be valid if provision has been made therefor by general law; or

(2)(A) Amendments to charters or amendments to or repeals of ordinances, resolutions, or regulations adopted pursuant to subsection (a) of this Code section may be initiated by a petition, filed with the governing authority of the municipal corporation, containing, in cases of municipal corporations with a population of 5,000 or less, the signatures of at least 25 percent of the electors registered to vote in the last general municipal election; in cases of municipal corporations with a

population of more than 5,000 but not more than 100,000, at least 20 percent of the electors registered to vote in the last general municipal election; and in cases of municipal corporations with a population of more than 100,000, at least 15 percent of the electors registered to vote in the last general municipal election. The petition shall specifically set forth the exact language of the proposed amendment or repeal. The governing authority shall determine the validity of such petition within 50 days of its filing with the governing authority. In the event that the governing authority determines that such petition is valid, it shall be the duty of such authority to issue the call for an election for the purpose of submitting such amendment or repeal to the registered electors of the municipal corporation for their approval or rejection. Such call shall be issued within one week after the determination of the validity of the petition. The governing authority shall set the date of the election as provided in [Code Section 21-2-540](#). The governing authority shall cause a notice of the date of the election to be published in the official organ of the county of the legal situs of the municipal corporation or in a newspaper of general circulation in the municipal corporation once a week for two weeks immediately preceding such date. The notice shall also contain a synopsis of the proposed amendment or repeal and shall state that a copy thereof is on file in the office of the clerk or the recording officer of the municipal governing authority and in the office of the clerk of the superior court of the county of the legal situs of the municipal corporation, for the purpose of examination and inspection by the public. The recording officer of the municipal governing authority shall furnish anyone, upon written request, a copy of the proposed amendment. If more than one-half of the votes cast on the question are for approval of the amendment or the repeal, the same shall become of full force and effect; otherwise it shall be void and of no force and effect. The expense of the election shall be borne by the municipal corporation. It shall be the duty of the governing authority to hold and conduct such election. The election shall be held under the same laws and rules and regulations as govern special elections of the municipal corporation, except as otherwise provided in this subparagraph. It shall be the duty of the governing authority to canvass the returns and to declare and certify the result of the election. It shall be the further duty of the governing authority to certify the result thereof to the Secretary of State. A referendum on any such amendment or repeal shall not be held more often than once each year. No amendment under this subparagraph shall be valid if provision has been made therefor by general law.

(B) In the event that the governing authority determines that the petition is not valid, it shall publish in explicit detail the reasons why such petition is not valid. Such publication shall be in the official organ of the county of the legal situs of the municipal corporation or in a newspaper of general circulation in the municipal corporation, in the week immediately following the date on which the petition is declared to be not valid. In any proceeding in which the validity of the petition is at issue, the tribunal considering such issue shall not be limited by the reasons assigned.

(C) The sponsor of a petition authorized by this paragraph shall obtain copies of all official petitions from the clerk of the governing authority. The clerk of the governing authority shall approve all petitions as to form. The clerk of the governing authority shall provide a place on each form for the person collecting signatures to provide his or her name, street address, city, county, state, ZIP Code, and telephone number and to swear that he or she is a resident of the municipality affected by the petition and that the signatures were collected inside the boundaries of the affected municipality. The collection of signatures for the petition shall begin on the day the clerk of the governing authority provides official copies to the sponsor of the petition. A petition authorized by subparagraph (A) of this paragraph shall not be accepted by the governing authority for verification if more than 60 days have elapsed since the date the sponsor of the petition first obtained copies of the petition from the clerk of the governing authority. Any petition being circulated pursuant to subparagraph (A) of this paragraph on July 1, 1989, shall be filed with the clerk of the governing authority by not later than July 11, 1989. The clerk of the governing authority shall, within seven days, provide the sponsor with official petitions. The sponsor shall have 60 additional days after obtaining official petitions to collect the remaining number of required signatures. Nothing in this subparagraph shall invalidate otherwise valid signatures collected on or before July 1, 1989.

(c) Any other provisions of this chapter to the contrary notwithstanding, subsection (b) of this Code section shall not apply to any city-county consolidated government in existence on January 1, 1976, and any such city-county consolidated government shall not be authorized to amend its consolidated government charter pursuant to subsection (b) of this Code section.

### Credits

Laws 1965, p. 298, § 3; Laws 1966, p. 296, § 1; Laws 1976, p. 1429, § 1; Laws 1987, p. 3, § 36; Laws 1989, p. 1584, § 1; Laws 1991, p. 94, § 36; Laws 1998, p. 295, § 3.

### Editors' Notes

#### Relevant Additional Resources

Additional Resources listed below contain your search terms.

## RESEARCH REFERENCES

### Forms

7 [Brown Georgia Pleading, Practice and Legal Forms Annotated § 36-35-3 Form 1](#), Petition for Amendment of Charter.

Notes of Decisions containing your search terms (0)

[View all 184](#)

Ga. Code Ann., § [36-35-3](#), GA ST § [36-35-3](#)

The statutes and Constitution are current through legislation passed at the 2022 Regular Session of the Georgia General Assembly. Some sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

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**AN ORDINANCE AMENDING THE CHARTER OF  
THE CITY OF DECATUR, GEORGIA TO MODIFY ANY AND ALL MASCULINE  
AND/OR FEMININE LANGUAGE TO GENDER NEUTRAL LANGUAGE; AND  
PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Charter of the City of Decatur, Georgia contains numerous gender specific terms and pronouns, including many masculine pronouns; and

WHEREAS, all genders are created equal; and

WHEREAS, amending the Charter of the City of Decatur, Georgia to include gender-neutral pronouns and terms by eliminating any gender preference language within the Charter of the City of Decatur, Georgia will promote equality; and

WHEREAS, it is the intent of the City Commission that the substitution of gender-neutral pronouns and terms shall not substantively alter or modify the meaning or effect of any provision of the Charter of the City of Decatur.

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Decatur, Georgia, and it is hereby ordained by the authority of the same, as follows:

**SECTION 1**

The recitals and findings contained in the preamble to this ordinance are adopted by reference and incorporated as if fully set forth in this section.

**SECTION 2**

The Charter of the City of Decatur, Georgia is hereby amended to promote gender-neutral language by substituting gender-neutral pronouns and terms as follows (substituted words highlighted):

**ARTICLE III - CITY COMMISSION**

- Section 3.10 is hereby amended so that the second sentence reads as follows:

“City commissioners shall be elected by receiving a plurality of the votes cast in the election district in which **the city commissioner** qualified.”

- Section 3.11(a) is hereby amended to read as follows:

“(a) No person shall be eligible for the office of city commissioner of the city unless **the person**:

(1) Has resided in the city not less than one year immediately preceding **said person’s** election;

(2) Is a qualified voter in municipal elections for officers of the city; and

(3) Has not been convicted and sentenced for any violation of the criminal laws of Georgia involving moral turpitude, unless such person has received a full pardon or has all rights of citizenship restored.

- Section 3.15 is hereby amended to read as follows:

“At the first regular meeting of the city commission in each calendar year, the city commission shall elect one of its members to serve as mayor for one year from the time of **the city commissioner’s** election as mayor until **the city commissioner’s** successor shall have been elected and qualified.”

- Section 3.16(3) is hereby amended to read as follows:

“Serve as the chair of the meetings of the city commission. **The chair of the meetings** shall have the power to convene the city commission in extra session whenever, in **the chair’s** judgment, it becomes necessary, and shall do so whenever requested by three city commissioners in writing.”

- Section 3.17 is hereby amended so that the first sentence reads as follows:

“At the first regular meeting of the city commission in each calendar year, the city commission shall elect one of its members to serve as mayor pro tempore for one year from the time of **the city commissioner’s** election as mayor pro tempore until **the city commissioner’s** successor shall have been elected and qualified.”

- Section 3.21(e) is hereby amended to read as follows:

“No member of a board, commission or authority shall assume office until **said person** has executed and filed with the city clerk an oath obligating **said person** to perform faithfully and impartially the duties of **said person’s** office, such oath to be prescribed by ordinance or resolution and administered by the mayor.”

#### **ARTICLE IV – ADMINISTRATION**

- Section 4.10 is hereby amended to read as follows:

“By majority vote, the city commission shall appoint a city manager for an indefinite term and shall fix **the city manager’s** compensation. The city manager shall be appointed solely on the basis of **the city manager’s** executive and administrative qualifications, with special reference to actual experience in or knowledge of accepted practices with respect to the duties of **the** office. At the time of **the city manager’s** appointment, the city manager need not be a resident of the city or the state, but during **the city manager’s** tenure of office, **the city manager** shall reside within the city.”

- Section 4.11(2) is hereby amended to read as follows:

“Be responsible to the city commission for the administration of all municipal affairs placed in the city manager’s charge by the city commission or by or under this Charter.”

- Section 4.11(3) is hereby amended to read as follows:

“Appoint and, when the city manager deems it necessary for the good of the city, suspend or remove all city employees in accordance with such general personnel rules, regulations, policies or ordinances that the city commission may adopt, except that the heads of the city departments shall be nominated by the city manager and confirmed by the city commission.”

- Section 4.11(6) is hereby amended to read as follows:

“Attend all meetings of the city commission and shall have the right to take part in discussion and to recommend any measures that the city manager deems expedient, but the city manager may not vote. The city manager shall be entitled to notice of all regular and special meetings of the city commission.”

- Section 4.11(10) is hereby amended to read as follows:

“Make such other reports as the city commission may require concerning the operations of city departments, offices and agencies subject to the city manager’s direction and control.”

- Section 4.11(13) is hereby amended to read as follows:

“Consolidate or combine offices, positions, departments or units under the city manager’s jurisdiction, with the approval of the city commission. The city manager may be the head of one or more departments.”

- Section 4.11(14) is hereby amended to read as follows:

“Investigate the affairs of the city or any department or division thereof. The city manager shall investigate all complaints concerning the administration of the city government and the services provided by the public utilities of the city, and shall see that all franchises, permits and privileges granted by the city are faithfully observed.”

- Section 4.11(15) is hereby amended to read as follows:

“Devote the city manager’s entire time to the discharge of the city manager’s official duties.”

- Section 4.11(16) is hereby amended to read as follows:

“Keep the city commission fully advised as to the financial condition and future needs of the city and make such recommendations to the city commission concerning the affairs of the city as the city manager deems desirable.”

- Section 4.12 is hereby amended to read as follows:

“By letter filed with the city clerk, the city manager shall designate, subject to the approval of the city commission, a qualified administrative officer of the city to exercise the powers and perform the duties of the city manager during the city manager’s temporary absence or disability. During

this absence or disability, the city commission may revoke that designation at any time and appoint another administrative officer of the city to serve as acting city manager until the city manager returns or **the city manager's** disability ceases.”

- Section 4.13(c) is hereby amended so that the first sentence reads as follows:

“Within five days after a copy of the resolution is delivered to the city manager, **the city manager** may file with the city commission a written request for a public hearing.”

- Section 4.13(e) is hereby amended to read as follows:

“The city manager shall continue to receive **the city manager's** salary until the effective date of a final resolution of removal.”

- Section 4.15 is hereby amended to read as follows:

“Neither the mayor nor any other member of the city commission shall be eligible for appointment as city manager or acting or interim city manager during **the mayor's or city commissioner's** term of office and for a period of one year after the end of **the mayor's or city commissioner's** term as mayor or city commissioner.”

- Section 4.16 is hereby amended to read as follows:

“The directors of departments shall be immediately responsible to the city manager for the proper administration of their departments. Such directors shall make regular reports concerning the work of their departments to the city manager and shall furnish **the city manager** at all times with such information as **the city manager** may desire concerning their departments. Any director who has received notice of removal from office may request a hearing as described in section 4.13(c), and the city manager, in **the city manager's** discretion, may grant such request.”

- Section 4.17(a) is hereby amended so that the first sentence reads as follows:

“Every appointment of a director of a department of the city shall be made solely on the basis of **the director's** administrative and professional qualifications. ”

## **ARTICLE V – MUNICIPAL COURT**

- Section 5.10(c) is hereby amended to read as follows:

“No person shall be qualified or eligible to serve as a judge on the municipal court unless **said person** shall have attained the age of 21 years and shall be a member of the State Bar of Georgia and shall be a resident of said city. All judges shall be appointed by the city commission.”

- Section 5.10(f) is hereby amended to read as follows:

“Before assuming office, each judge shall take an oath or affirmation, given by the mayor, that **the 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.”



- Section 5.11(e)(3) is hereby amended to read as follows:

“Accept cash or personal or real property as a surety bond for the appearance of persons charged with violations.

Whenever any person shall give bail for **said person’s** appearance and shall fail to appear at the time fixed for trial, **said person’s** bond may be forfeited by the judge presiding at such time, and an execution shall be issued thereon after serving the defendant and **said person’s** sureties with a rule nisi at least two days before a hearing on the rule nisi, requiring **said person** to show cause why the bond should not be forfeited.”

## **ARTICLE VI – FINANCE**

- Section 6.11(b) is hereby amended so that the first sentence reads as follows:

“Expenditures shall be legal only on the basis of appropriations in the budget, for which expenditures warrants shall be issued by the city manager or **the city manager’s** designee.”

- Section 6.11(c) is hereby amended to read as follows:

“It shall be unlawful for any elected official, appointed officer or employee of the city or any agency or political entity to which this Charter applies to be interested, directly or indirectly, in any transaction with, sale to, work for or contract of, the city or any department or service of the government of the city, involving the expenditure of any public funds of the city, that is incompatible with the proper discharge of **said person’s** official duties or that would tend to impair the independence of **said person’s** judgment or action in the performance of **said person’s** official duties.”

- Section 6.12 is hereby amended to read as follows:

“The city manager or **the city manager’s** designee shall see that all monies belonging to the city are deposited with such responsible banks as may be designated by the city commission.”

## **ARTICLE VII – EDUCATION**

- Section 7.11(a) is hereby amended to read as follows:

“The chair and vice-chair of the board of education shall be elected from the membership of the board of education at its first meeting in each calendar year, and such members shall serve as chair and vice-chair for terms of one year. A member may succeed **themselves** as chair or vice-chair.”

## **ARTICLE VIII – GENERAL PROVISIONS**

- Section 8.11(a) is hereby amended so that the second sentence reads as follows:

“Any person who escapes after trial and conviction may be apprehended or arrested whenever found in this state, and the warrant of the judge of the municipal court shall be sufficient authority for **the person’s** arrest and return.”

- Section 8.12 is hereby amended to read as follows:

“Except as otherwise provided by law, if the mayor, any other commissioner or any other officer of the city is sued for any acts or things done in **said person’s** official capacity under and in accordance with this Charter and the ordinances passed in pursuance hereof, **said person** may be justified under this Charter, and the provisions of this Charter may be pleaded and shall be a full defense to any action brought against such officer.”

**SECTION 3**

Subject to final approval by the City Attorney and the City Clerk, the Municipal Code Corporation and any future authorized codifier of the Code of Ordinances of the City of Decatur, Georgia are authorized to degenderize other gender-specific language in the Charter of the City of Decatur, Georgia in a manner consistent with the foregoing amendments, which authority includes degenderizing future ordinances amending the Charter during the codification process.

**SECTION 4**

This ordinance shall take effect immediately upon its adoption.

SO ORDAINED, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Signed: \_\_\_\_\_  
Patti Garrett  
Mayor

Attest: \_\_\_\_\_  
Meredith Roark  
City Clerk

FIRST ADOPTION: \_\_\_\_\_, 2022

SECOND ADOPTION: \_\_\_\_\_, 2022

EFFECTIVE DATE: \_\_\_\_\_, 2022