

House Bill 1272

By: Representatives Bannister of the 77th and Squires of the 78th

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the City of Lilburn; to provide for incorporation, boundaries,
2 and powers of the city; to provide for a governing authority of such city and the powers,
3 duties, authority, election, terms, vacancies, compensation, expenses, qualifications,
4 prohibitions, conflicts of interest, and suspension and removal from office relative to
5 members of such governing authority; to provide for inquiries and investigations; to provide
6 for oaths, organization, meetings, quorum, voting, rules, and procedures; to provide for
7 ordinances and codes; to provide for a city manager, mayor, and mayor pro tempore and
8 certain duties, powers, and other matters relative thereto; to provide for administrative affairs
9 and responsibilities; to provide for boards, commissions, and authorities; to provide for a city
10 attorney, a city clerk, and other personnel and matters relating thereto; to provide for rules
11 and regulations; to provide for a municipal court and the judge or judges thereof and other
12 matters relative to those judges; to provide for the court's jurisdiction, powers, practices, and
13 procedures; to provide for the right of certiorari; to provide for elections; to provide for
14 taxation, licenses, and fees; to provide for franchises, service charges, and assessments; to
15 provide for bonded and other indebtedness; to provide for auditing, accounting, budgeting,
16 and appropriations; to provide for city contracts and purchasing; to provide for the
17 conveyance of property and interests therein; to provide for bonds for officials; to provide
18 for prior ordinances and rules, pending matters, and existing personnel; to provide for
19 penalties; to provide for definitions and construction; to provide for other matters relative to
20 the foregoing; to provide for effective dates; to repeal a specific Act; to repeal conflicting
21 laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **ARTICLE I**
24 **INCORPORATION AND POWERS**

SECTION 1.10.

Name.

This city and the inhabitants thereof, are reincorporated by the enactment of this charter and are hereby constituted and declared a body politic and corporate under the name and style of Lilburn, Georgia, and by that name shall have perpetual succession.

SECTION 1.11.

Corporate boundaries.

(a) The boundaries of this city shall be those existing on the effective date of the adoption of this charter with such alterations as may be made from time to time in the manner provided by law. 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 city clerk and to be designated, as the case may be: "Official Map (or Description) of the Corporate Limits of the City of Lilburn, Georgia." Photographic, typed, or other copies of such map or description certified by the city shall be admitted as 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) This city shall have all powers possible for a city to have under the present or future constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter. This city shall have all the powers of self-government not otherwise prohibited by this charter or by general law.

(b) The powers of this city shall be construed liberally in favor of the city. The specific mention or failure to mention particular powers shall not be construed as limiting in any way the powers of this city.

SECTION 1.13.

Exercise of powers.

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 by pertinent laws of the State of Georgia.

ARTICLE II**GOVERNMENT STRUCTURE**

A. Creation.

SECTION 2.10.

City council creation; number; election.

The legislative authority of the government of this city, except as otherwise specifically provided in this charter, shall be vested in a city council to be composed of a mayor and four councilmembers. The city council established shall in all respects be a successor to and continuation of the governing authority under prior law. The mayor and councilmembers shall be elected in the manner provided by general law and this charter.

B. Terms and qualifications for office.

SECTION 2.11.

Mayor and city council terms and qualifications for office.

The mayor and members of the city council shall serve for terms of four years and until their respective successors are elected and qualified. No person shall be eligible to serve as mayor or council member unless that person shall have been a resident of the city for 12 months prior to the date of election of the mayor or members of the council; each shall continue to reside therein during that member's period of service and to be registered and qualified to vote in municipal elections of this city.

1 C. Vacancies in office.

2 **SECTION 2.12.**

3 Vacancy; filling of vacancies.

4 (a) Vacancies - The office of mayor or council member shall become vacant upon the
5 occurrence of any event specified by the Constitution of the State of Georgia, Title 45 of the
6 O.C.G.A., or such other applicable laws as are or may hereafter be enacted.

7 (b) Filling of Vacancies - A vacancy in the office of mayor or council member shall be filled
8 for the remainder of the unexpired term, if any, by appointment by the mayor and/or council,
9 if less than 12 months remains in the unexpired term, otherwise by an election, as provided
10 for in Section 5.14 of this charter and in accordance with Titles 21 and 45 of the O.C.G.A.,
11 or other such laws as are or may hereafter be enacted.

12 D. Compensation and expenses.

13 **SECTION 2.13.**

14 Compensation and expenses.

15 The mayor and council members shall receive compensation and expenses for their services
16 as provided by ordinance.

17 E. Prohibitions.

18 **SECTION 2.14.**

19 Holding other office; voting when financially interested.

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

22 (b) Except as authorized by law, the mayor or any council member shall not hold any other
23 city office or city employment during the term for which that person was elected.

24 (c) Neither the mayor nor any member of the city council shall vote upon or sign any
25 ordinance, resolution, contract or other matter in which that person is financially interested.

1 F. Inquiries and investigations.

2 **SECTION 2.15.**

3 Inquiries and investigations.

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

10 G. General power and authority.

11 **SECTION 2.16.**

12 General power and authority of the city council.

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

15 H. Eminent domain.

16 **SECTION 2.17.**

17 Eminent domain.

18 The city council is hereby empowered to acquire, construct, operate and maintain public
19 ways, parks, public grounds, cemeteries, markets, market houses, public buildings, libraries,
20 sewers, drains, sewage treatment, waterworks, electrical systems, gas systems, airports,
21 hospitals, and charitable, educational, recreational, passive recreational and greenspace,
22 sport, curative, corrective, detentional, penal and medical institutions, agencies and facilities,
23 and any other public improvements inside or outside the city, and to regulate the use thereof,
24 and for such purposes, property may be condemned under procedures established under
25 general law applicable now or as provided in the future.

1 B. Procedures.

2 **SECTION 2.20.**

3 Rules of procedure.

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

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

10 (c) The city council, by majority vote, shall assign from among its members policy
11 responsibility for the various operating departments of the city.

12 (d) The city council shall instruct the city manager on matters of importance for any
13 department or other duties which the city council has assigned that councilmember
14 responsibility.

15 **SECTION 2.21.**

16 Quorum: voting.

17 The mayor, or mayor pro tempore, and two members of the council shall constitute a quorum
18 for the transaction of any business before the council; on all questions before the city council,
19 the mayor, or mayor pro tempore, if he or she be presiding, shall be entitled to vote only in
20 case of a tie or in case only one vote is needed to pass any motion, resolution, ordinance or
21 other question before the council. No motion, resolution, ordinance or other question before
22 the council shall pass unless a majority of the members, including the mayor or mayor pro
23 tempore, if he or she be presiding, votes for the same, and unless the said motion, resolution,
24 ordinance or question receives at least three affirmative votes.

25 C. Ordinances.

26 **SECTION 2.22.**

27 Ordinance form; procedures.

28 (a) Every proposed ordinance shall be introduced in writing and in the form required for
29 final adoption. No ordinance shall contain a subject which is not expressed in its title. The

1 enacting clause shall be "The mayor and council of the City of Lilburn hereby ordains..." and
 2 every ordinance shall so begin.

3 (b) An ordinance may be introduced by any member of the council and be read at a regular
 4 or special meeting of the city council. This reading may be accomplished by the reading of
 5 the caption. Ordinances shall be considered and adopted or rejected by the city council in
 6 accordance with the rules which it shall establish; except for emergency ordinances provided
 7 in Section 2.24. Either the mayor or any council member or council members may request
 8 that consideration of any proposed ordinance be delayed until the next regularly scheduled
 9 meeting of the governing authority. Said request need not be accompanied by any
 10 explanation or reason and shall automatically be delayed until the next regularly scheduling
 11 meeting of the governing authority without the necessity of said delay being approved or
 12 voted on by the governing authority. The delay of said consideration shall not be further
 13 postponed except by vote of the governing authority. Upon introduction of any ordinance,
 14 the clerk shall, as soon as reasonable, distribute a copy to the mayor and to each council
 15 member and shall file a reasonable number of copies in the office of the clerk and at such
 16 other public places as the city council may designate.

17 **SECTION 2.23.**

18 Action requiring an ordinance.

19 In addition to other acts required by general state law or by specific provisions of this charter
 20 to be done by ordinances, acts of the council which have the force and effect of law shall be
 21 done by ordinance.

22 **SECTION 2.24.**

23 Emergencies.

24 (a) To meet a public emergency affecting life, health, property or public peace, the city
 25 council may convene on call of the mayor or one councilmember and promptly adopt an
 26 emergency ordinance, but such ordinance may not levy taxes; grant, renew or extend a
 27 franchise; regulate the rate charged by any public utility for its services; or authorize the
 28 borrowing of money except for loans to be repaid within 30 days. An emergency ordinance
 29 shall be introduced in the form prescribed for ordinances generally, except that it shall be
 30 plainly designated as an emergency ordinance and shall contain, after the enacting clause,
 31 a declaration stating that an emergency exists, and describing the emergency in clear and
 32 specific terms. An emergency ordinance may be adopted, with or without amendment, or
 33 rejected at the meeting at which it is introduced, but the affirmative vote of at least three

1 council members shall be required for adoption. It shall become effective upon adoption or
 2 at such later time as it may specify. Every emergency ordinance shall automatically stand
 3 repealed 30 days following the date upon which it was adopted, but this shall not prevent
 4 reenactment of the ordinance in the manner specified in this section if the emergency still
 5 exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance
 6 in the same manner specified in this section for adoption of emergency ordinances.

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

11 **SECTION 2.25.**

12 Codes of technical regulations.

13 (a) The city council may adopt any standard code of technical regulations by reference
 14 thereto in an adopting ordinance. The procedure and requirements governing such adopting
 15 ordinance shall be as prescribed for ordinances generally except that:

16 (1) The requirements of subsection (b) of Section 2.22 for distribution and filing of
 17 copies of the ordinance shall be construed to include copies of any code of technical
 18 regulations, as well as the adopting ordinance; and

19 (2) A copy of each adopted code of technical regulations, as well as the adopting
 20 ordinance, shall be authenticated and recorded by the clerk pursuant to Section 2.26.

21 **SECTION 2.26.**

22 Signing; authenticating; recording; codification; printing.

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

25 (b) The city council shall provide for the preparation of a general codification of all the
 26 ordinances of the city having the force and effect of law. The general codification shall be
 27 adopted by the city council by ordinance and shall be published promptly, together with all
 28 amendments thereto and such codes of technical regulations and other rules and regulations
 29 as the city council may specify. This compilation shall be known and cited officially as "The
 30 Code of the City of Lilburn, Georgia." Copies of the code shall be available to all officers,
 31 departments, and agencies of the city and made available for purchase by the public at a
 32 reasonable price as fixed by the city council.

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

10 **SECTION 2.27.**

11 City manager; appointment; qualifications; compensation.

12 The city council shall appoint a city manager for an indefinite term and shall fix the
13 manager's compensation. The manager shall be appointed solely on the basis of executive
14 and administrative qualifications.

15 **SECTION 2.28.**

16 Removal of city manager.

17 The city manager is employed at will and may be summarily removed from office at any time
18 by the city council.

19 **SECTION 2.29.**

20 Acting city manager.

21 The city council may designate a qualified city administrative officer to exercise the powers
22 and perform the duties of manager during the manager's temporary absence or physical or
23 mental disability. The city council may elect to assume these responsibilities depending on
24 the length of absence of the city manager.

25 **SECTION 2.30.**

26 Powers and duties of the city manager.

27 The city manager shall be the chief executive and administrative officer of the city. The
28 manager shall be responsible to the city council for the administration of all city affairs
29 placed in the manager's charge under this charter. As the chief executive and administrative

1 officer, the manager shall perform such duties as may be required by the city council and/or
2 required by city ordinance.

3 **SECTION 2.31.**

4 Election of mayor; forfeiture; compensation.

5 The mayor shall be elected and serve for a term of four years and until a successor is elected
6 and qualified. The mayor shall be a qualified elector of this city and shall have been a
7 resident of the city for 12 months prior to the election. The mayor shall continue to reside
8 in this city during the period of service. The mayor shall forfeit the office on the same
9 grounds and under the same procedure as for council members. The compensation of the
10 mayor shall be established in the same manner as for council members.

11 **SECTION 2.32.**

12 Powers and duties of mayor.

13 The mayor shall:

- 14 (1) Preside at all meetings of the city council. Cast the deciding vote in any instance
15 where the council vote is tied, or where one vote is needed to pass any motion, resolution,
16 ordinance or other question before the council;
- 17 (2) Have power to administer oaths and to take affidavits;
- 18 (3) Sign as a matter of course on behalf of the city all written and approved contracts,
19 ordinances and other instruments executed by the city which by law are required to be in
20 writing;
- 21 (4) Recommend to the city such measures relative to the affairs of the city, improvement
22 of the government, and promotion of the welfare of its inhabitants as he may deem
23 expedient;
- 24 (5) Be the head of the city for the purpose of service of process and for ceremonial
25 purposes, and be the official spokesperson for the city and the chief advocate of policy;
- 26 (6) Prepare, or have prepared, an agenda for each meeting of the city council which shall
27 include all business submitted by the mayor, any councilmembers, the city manager and
28 the city attorney;
- 29 (7) Shall instruct the city manager on matters of importance for any department which
30 the city council has assigned the mayor responsibility or on any matters of importance to
31 the city council;
- 32 (8) Perform such other duties as may be required by law, this charter, or by 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 city 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 herein 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 himself or herself to faithfully and impartially perform the duties of that member's office, such oath to be prescribed by ordinance and administered by the mayor.

(g) All board members serve at-will and may be removed at any time by a vote of three members of the city 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 chair and one member as vice-chair 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 city council shall appoint a city attorney 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 council as directed; shall advise the city council, mayor, 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 the person's position as city attorney.

SECTION 3.13.

City clerk.

The city council shall appoint a city clerk who shall not be a council member. 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 of Lilburn, Georgia, and any of its agencies, departments, boards, commissions, or authorities. When a pay plan has been adopted, the city council shall increase or decrease the salary range applicable to any position 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. The city council shall adopt rules and regulations consistent with this charter concerning:

- (1) The method of employee selection and probationary periods of employment;

1 (2) The administration of position classification and pay plan, methods of promotion and
 2 application of service ratings thereto and transfer of employees within the classification
 3 plan;

4 (3) Hours of work, vacation, sick leave and other leaves of absence, overtime pay and
 5 the order and manner in which layoffs shall be effected; and

6 (4) Such other personnel policies as may be necessary to provide for adequate and
 7 systematic handling of the personnel affairs of the city.

8 **ARTICLE IV**

9 **JUDICIAL BRANCH**

10 **SECTION 4.10.**

11 Creation; name.

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

13 **SECTION 4.11.**

14 Chief judge; associate judge.

15 (a) The municipal court shall be presided over by a chief judge and such part-time, full-time,
 16 or stand-by judges as shall be provided by ordinance.

17 (b) No person shall be qualified or eligible to serve as a judge on the municipal court unless
 18 that person shall have attained the age of 21 years, shall be a resident of Gwinnett County,
 19 shall be a member of the State Bar of Georgia and shall possess all qualifications required
 20 by law. All judges shall be appointed by the city council and shall serve until a successor is
 21 appointed and qualified.

22 (c) Compensation of the judges shall be fixed by ordinance.

23 (d) Judges serve at-will and may be removed from office at any time by the city council
 24 unless otherwise provided by ordinance.

25 (e) Before assuming office, each judge shall take an oath, given by the mayor, that the judge
 26 will honestly and faithfully discharge the duties of the office to the best of that person's
 27 ability and without fear, favor or partiality. The oath shall be entered upon the minutes of
 28 the city council journal required in Section 2.20.

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 for each offense committed or imprisonment for 90 days, 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 state courts for violations of state law.

(e) The municipal court shall have authority to establish bond and recognizances to ensure the presence of those charged with violations before said court, and shall have discretionary authority to accept cash or personal or real property as surety for the appearance of persons charged with violations. Whenever any person shall give bond for that person's appearance and shall fail to appear at the time fixed for trial, the 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 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.

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

5 **SECTION 4.14.**

6 Certiorari.

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

11 **SECTION 4.15.**

12 Rules for court.

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

20 **ARTICLE V**

21 **ELECTIONS AND REMOVAL**

22 A. General law.

23 **SECTION 5.10.**

24 Applicability of general law.

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

1 B. Election of officers.

2 **SECTION 5.11.**

3 Regular elections; time for holding.

4 The city council shall cause an election to be held at the city hall or such other place in the
5 city as the council shall direct and designate on the Tuesday next following the first Monday
6 in November, 1989, and on such day biennially thereafter. All elections and notice thereof
7 shall in all respects be held in compliance with Chapter 3 of Title 21 of the O.C.G.A. The
8 mayor and council members shall be elected pursuant to Code Section 21-2-541.1 of the
9 O.C.G.A. The terms of office of the mayor and two council persons whose terms of office
10 would normally expire at the first organizational meeting in January, 1990, shall expire on
11 December 31, 1989. The terms of office of the two council persons whose terms of office
12 would normally expire at the first organizational meeting in January 1992, shall expire on
13 December 31, 1991. The mayor and each member of the council elected pursuant to the Act
14 shall be elected for a term of office of four years and until his or her successor is elected and
15 qualified and shall take office on the first day of January immediately following his or her
16 election.

17 **SECTION 5.12.**

18 Qualifying; nomination of candidates; absentee ballots.

19 By ordinance the city council may prescribe rules and regulations governing qualifying fees,
20 nomination of candidates, absentee ballots, write-in votes, challenge of votes, and such other
21 rules and regulations as may be necessary for the conduct of elections in the city.

22 **SECTION 5.13.**

23 Nonpartisan elections.

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

26 **SECTION 5.14.**

27 Election by plurality.

28 The person receiving a plurality of the votes cast for any city office shall be elected.

1 C. Vacancies.

2 **SECTION 5.15.**

3 Special elections; vacancies.

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

11 D. Other provisions.

12 **SECTION 5.16.**

13 Other provisions.

14 Except as otherwise provided by this charter, the city council shall, by ordinance, prescribe
 15 such rules and regulations it deems appropriate to fulfill any options and duties under the
 16 Georgia Municipal Election Code.

17 **SECTION 5.17.**

18 Removal of officers.

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

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

24 (1) Following a hearing at which an impartial panel shall render a decision. In the event
 25 an elected officer is sought to be removed by the action of the city council, such officer
 26 shall be entitled to a written notice specifying the ground or grounds for removal and to
 27 a public hearing which shall be held not less than ten days after the service of such
 28 written notice. Removal may be accomplished by three-fifths' vote of entire council.
 29 The city council shall provide by ordinance for the manner in which such hearings shall
 30 be held. Any elected officer sought to be removed from office as herein provided shall

1 have the right of appeal from the decision of the city council to the Superior Court of
 2 Gwinnett County. Such appeal shall be governed by the same rules as govern appeals to
 3 the superior court from the probate court.

4 (2) By an order of the Superior Court of Gwinnett County following a hearing on a
 5 complaint seeking such removal brought by any resident of the City of Lilburn.

6 (3) By a recall election. A recall of an incumbent of an elective office shall be initiated
 7 upon a written request to that effect signed by at least 30 percent of the registered voters
 8 eligible to vote for such office in the last preceding general municipal election. The
 9 council shall prescribe rules and regulations governing the initiation and preparation of
 10 such written request and the procedures for holding the recall election.

11 **SECTION 5.18.**

12 Organization of council.

13 The new council members shall be sworn in by the city attorney and the oath of office shall
 14 be administered to the newly elected members as follows:

15 "I do solemnly swear (or affirm) that I will well and truly perform the duties of (mayor or
 16 Council Member as the case may be) of the City of Lilburn, Georgia, and that I will support
 17 and defend the charter thereof as well as the Constitution and laws of the State of Georgia
 18 and of the United States of America. I do further solemnly swear and affirm that I am not
 19 the holder of any unaccounted for public money due this State or any political subdivision
 20 or authority thereof; that I am not the holder of any office of trust under the government
 21 of the United States, any other state, or any foreign state which, by the laws of the State of
 22 Georgia I am prohibited from holding; that I am otherwise qualified to hold said office,
 23 according to the Constitution and Laws of Georgia, and that I will support the Constitution
 24 of the United States and of this State."

25 **SECTION 5.19.**

26 Temporary vacancies.

27 Pursuant to the authority set forth in subsection (d) of Code Section 45-5-6 of the O.C.G.A.,
 28 for the duration of any suspension of any elected member of the governing authority of the
 29 City of Lilburn, a replacement officer for the public officer suspended shall be appointed at
 30 any regular or specially called meeting of the governing authority. The person appointed
 31 shall have all authority thereafter as is possessed by an elected person for the same position.
 32 The person appointed shall serve for the duration of the suspension or the expiration of the
 33 term of office for which said appointment has been made, whichever shall first occur.

1 Should the suspended person be finally convicted, the office of the said public official shall
 2 be considered permanently vacant and shall be filled pursuant to Section 5.15 of the charter
 3 of the City of Lilburn, as amended.

4 **ARTICLE VI**

5 **FINANCE**

6 A. Property taxes.

7 **SECTION 6.10.**

8 Property tax.

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

15 **SECTION 6.11.**

16 Millage rate; due dates; payment methods.

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

21 B. Occupation taxes and regulatory fees.

22 **SECTION 6.12.**

23 Occupation and business taxes.

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

SECTION 6.13.

Regulatory fees; permits.

The city council by ordinance shall have the power to require businesses or practitioners doing business within this city to obtain a permit for such activity from the city and pay a reasonable 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.

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, 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 sewers, sanitary and health services, or any other services provided or made available within and without 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.

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.

Preparation of budgets.

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

1 capital budget, including requirements as to the scope, content and form of such budgets and
2 plans.

3 **SECTION 6.25.**

4 Submission of operating budget to city council.

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

14 **SECTION 6.26.**

15 Action by city council on budget.

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

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

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

1 shall be authorized to establish a tax millage rate each year after the submission of the budget
2 to the council to ensure that the necessary revenue will be available to meet the
3 appropriations provided for in the budget. The tax millage rate levied by the council shall
4 not exceed five mills to cover general operating expenses, without the approval of a majority
5 of those voting in a referendum specially called for approval of same. An additional millage
6 rate may be levied for the retirement of bonded indebtedness.

7 **SECTION 6.27.**

8 Tax levies.

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

15 **SECTION 6.28.**

16 Changes in appropriations.

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

21 **SECTION 6.29.**

22 Capital budget.

23 (a) On or before the date fixed by the city council but no later than ten days prior to the
24 beginning of each fiscal year, the city manager shall submit to the city council a proposed
25 capital improvements plan with a recommended capital budget containing the means of
26 financing the improvements proposed for the ensuing fiscal year. The city council shall have
27 power to accept, with or without amendments, or reject the proposed plan and proposed
28 budget. The city council shall not authorize an expenditure for the construction of any
29 building, structure, work or improvement, unless the appropriations for such project are
30 included in the capital budget, except to meet a public emergency as provided in Section
31 2.24.

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

8 **SECTION 6.30.**

9 Independent audit.

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

15 **SECTION 6.31.**

16 Contracting procedures.

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

- 18 (1) It is in writing;
- 19 (2) It is drawn by or submitted and reviewed by the city attorney, and as a matter of
20 course, is signed by the city attorney to indicate such drafting or review; and
- 21 (3) It is made or authorized by the city council and such approval is entered in the city
22 council journal of proceedings pursuant to Section 2.21.

23 **SECTION 6.32.**

24 Centralized purchasing.

25 The city council may by ordinance prescribe procedures for a system of centralized
26 purchasing for the city.

1 date of this charter. During such two-year period, the city council shall review all such
2 provisions and shall readopt, repeal, or amend each, so that a codification as provided by
3 subsection (b) of Section 2.26 is accomplished.

4 **SECTION 7.12.**

5 Existing personnel and officers.

6 Except as specifically provided otherwise by this charter, all personnel and officers of the
7 city and their rights, privileges, and powers shall continue beyond the time this charter takes
8 effect for a period of 60 days before or during which the existing city council shall pass a
9 transition ordinance detailing the changes in personnel and appointive officers required or
10 desired and arranging such titles, rights, privileges and powers as may be required or desired
11 to allow a reasonable transition.

12 **SECTION 7.13.**

13 Pending matters.

14 Except as specifically provided otherwise by this charter, all rights, claims, actions, orders,
15 contracts, and legal or administrative proceedings shall continue and any such ongoing work
16 or cases shall be completed by such city agencies, personnel, or offices as may be provided
17 by the city council.

18 **SECTION 7.14.**

19 Construction.

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

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

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

25 **SECTION 7.15.**

26 Severability.

27 If any article, section, subsection, paragraph, sentence, or part thereof of this charter shall be
28 held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect
29 or impair other parts of this charter unless it clearly appears that such other parts are wholly

1 and necessarily dependent upon the part held to be invalid or unconstitutional, it being the
2 legislative intent in enacting this charter that each article, section, subsection, paragraph,
3 sentence, or part thereof be enacted separately and independent of each other.

4 **SECTION 7.16.**

5 Effective date.

6 This Act shall become effective upon its approval by the Governor or upon its becoming law
7 without such approval.

8 **SECTION 7.17.**

9 Specific repealer.

10 An Act incorporating the City of Lilburn in the County of Gwinnett, approved in 1980 (Ga.
11 L. 1980, p. 3164), is hereby repealed in its entirety and all amendatory Acts thereto are
12 likewise repealed in their entirety.

13 **SECTION 7.18.**

14 General repealer.

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