

House Bill 1573

By: Representatives Powell of the 23rd and Jamieson of the 22nd

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the City of Lavonia; 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, method of filling vacancies, compensation, qualifications,
4 prohibitions, and removal from office relative to members of such governing authority; to
5 provide for inquiries and investigations; to provide for organization and procedures; to
6 provide for ordinances and codes; to provide for the office of mayor and certain duties and
7 powers relative to the office of mayor; to provide for administrative responsibilities; to
8 provide for a city manager and certain duties and powers relative thereto; to provide for
9 boards, commissions, and authorities; to provide for a city attorney, a city clerk, a city
10 treasurer, and other personnel; to provide for rules and regulations; to provide for a municipal
11 court and the judge or judges thereof; to provide for practices and procedures; to provide for
12 taxation and fees; to provide for franchises, service charges, and assessments; to provide for
13 bonded and other indebtedness; to provide for accounting and budgeting; to provide for
14 purchases; to provide for the sale of property; to provide for bonds for officials; to provide
15 for eminent domain; to provide for other matters relative to the foregoing; to provide for
16 severability; to repeal a specific Act; to provide for an effective date; to repeal conflicting
17 laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **ARTICLE I**
20 **INCORPORATION AND POWERS**

SECTION 1.13.

Examples of powers.

The powers of this city shall include, but not be limited to, the following:

(1) Air and Water Pollution. To regulate the emission of smoke or other exhaust which pollutes the air and to prevent the pollution of natural streams which flow within the corporate limits of the city;

(2) 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 hereunder;

(3) 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;

(4) 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;

(5) Business Regulation and Taxation. To levy and to provide for the collection of license fees and taxes on privileges, occupations, trades, and processions; to license and regulate the same; to provide for the manner and method of payment of such licenses and taxes; and to revoke such licenses after due process for failure to pay any city taxes or fees;

(6) Condemnation. To condemn property, inside or outside the corporate limits of the city, for present or future use and for any corporate purpose deemed necessary by the governing authority, utilizing procedures enumerated in Title 22 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted;

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

(8) Emergencies. To establish procedures for determining and proclaiming that an emergency situation exists within or without 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;

(9) 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

1 general law, relating to both fire prevention and detection and to firefighting; and to
2 prescribe penalties and punishment for violations thereof;

3 (10) Garbage Fees. To levy, fix, assess, and collect a garbage, refuse, and trash
4 collection and disposal and other sanitary service charge, tax, or fee for such services as
5 may be necessary in the operation of the city from all individuals, firms, and corporations
6 residing in or doing business therein benefitting from such services; to enforce the
7 payment of such charges, taxes, or fees; and to provide for the manner and method of
8 collecting such service charges;

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

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

16 (13) Health and Sanitation. To prescribe standards of health and sanitation and to
17 provide for the enforcement of such standards;

18 (14) Jail Sentences. To provide that persons given jail sentences in the city's court may
19 work out such sentences in any public works or on the streets, roads, drains, and squares
20 in the city; to provide for commitment of such persons to any jail or to any county work
21 camp or county jail by agreement with the appropriate county officials;

22 (15) Motor Vehicles. To regulate the operation of motor vehicles and exercise control
23 over all traffic, including parking upon or across the streets, roads, alleys, and walkways
24 of the city;

25 (16) Municipal Agencies and Delegation of Power. To create, alter, or abolish
26 departments, boards, offices, commissions, and agencies of the city, and to confer upon
27 such agencies the necessary and appropriate authority for carrying out all the powers
28 conferred upon or delegated to the same;

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

32 (18) Municipal Property Ownership. To acquire, dispose of, and hold in trust or
33 otherwise, any real, personal, or mixed property in fee simple or lesser interest, inside or
34 outside the property limits of the city;

35 (19) Municipal Property Protection. To provide for the preservation and protection of
36 property and equipment of the city and the administration and use of same by the public;
37 and to prescribe penalties and punishment for violations thereof;

1 (20) Municipal Utilities. To acquire, lease, construct, operate, maintain, sell, and dispose
2 of public utilities, including but not limited to a system of waterworks, sewers and drains,
3 sewage disposal, gas works, electric light plants, transportation facilities, public airports,
4 cable television, and any other public utility; to fix the penalties and to provide for the
5 withdrawal of service for refusal or failure to pay the same; to authorize the extension of
6 water, sewerage, and electrical distribution systems, and all necessary appurtenances by
7 which said utilities are distributed, inside and outside the corporate limits of the city; and
8 to provide utility services to persons, firms, and corporations inside and outside the
9 corporate limits of the city as provided by ordinance;

10 (21) Nuisance. To define a nuisance and provide for its abatement whether on public or
11 private property;

12 (22) Penalties. To provide penalties for violation of any ordinances adopted pursuant to
13 the authority of this charter and the laws of the State of Georgia;

14 (23) Planning and Zoning. To provide comprehensive city planning for development by
15 zoning; and to provide subdivision regulation and the like as the city council deems
16 necessary and reasonable to insure a safe, healthy, and esthetically pleasing community;

17 (24) Police and Fire Protection. To exercise the power of arrest through duly appointed
18 police and to establish, operate, or contract for a police and a fire-fighting agency;

19 (25) Public Hazards; Removal. To provide for the destruction and removal of any
20 building or other structure which is or may become dangerous or detrimental to the
21 public;

22 (26) Public Improvements. To provide for the acquisition, construction, building,
23 operation, and maintenance of public ways, parks and playgrounds, recreational facilities,
24 cemeteries, markets and market houses, public buildings, libraries, public housing,
25 airports, hospitals, terminals, docks, parking facilities, or charitable, cultural, educational,
26 recreational, conservation, sport, curative, corrective, detentional, penal, and medical
27 institutions, agencies, and facilities; to provide any other public improvements, inside
28 or outside the corporate limits of the city; to regulate the use of public improvements; and
29 for such purposes, property may be acquired by condemnation under Title 22 of the
30 O.C.G.A. or such other applicable laws as are or may hereafter be enacted;

31 (27) Public Peace. To provide for the prevention and punishment of drunkenness, riots,
32 and public disturbances;

33 (28) Public Transportation. To organize and operate such public transportation systems
34 as are deemed beneficial;

35 (29) Public Utilities and Services. To grant franchises or make contracts for public
36 utilities and public services; and to prescribe the rates, fares, regulations, and standards
37 and conditions of service applicable to the service to be provided by the franchise grantee

1 or contractor, insofar as not in conflict with valid regulations of the Public Service
2 Commission;

3 (30) Regulation of Roadside Areas. To prohibit or regulate and control the erection,
4 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any
5 and all other structures or obstructions upon or adjacent to the rights of way of streets and
6 roads or within view thereof, within or abutting the corporate limits of the city; and to
7 prescribe penalties and punishment for violation of such ordinances;

8 (31) Retirement. To provide and maintain a retirement plan for officers and employees
9 of the city;

10 (32) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade
11 of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise
12 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and
13 walkways within the corporate limits of the city; to negotiate and execute leases over,
14 through, under, or across any city property or the right of way of any street, road, alley,
15 and walkway or portion thereof within the corporate limits of the city for bridges,
16 passageways, or any other purpose or use between buildings on opposite sides of the
17 street and for other bridges, overpasses, and underpasses for private use at such location
18 and to charge a rental therefor in such manner as may be provided by ordinance; to
19 authorize and control the construction of bridges, overpasses and underpasses within the
20 corporate limits of the city; to grant franchises and rights of way throughout the streets
21 and roads and over the bridges and viaducts for the use of public utilities and for private
22 use; and to require real estate owners to repair and maintain in a safe condition the
23 sidewalks adjoining their lots or lands and to impose penalties for failure to do so;

24 (33) Sewer Fees. To levy a fee, charge, or sewer tax as necessary to ensure the
25 acquiring, constructing, equipping, operating, maintaining, and extending of a sewage
26 disposal plant and sewerage system and to levy on those to whom sewers and sewerage
27 systems are made available a sewer service fee, charge, or sewer tax for the availability
28 or use of the sewers; to provide for the manner and method of collecting such service
29 charges and for enforcing payment of the same; and to charge, impose, and collect a
30 sewer connection fee or fees to those connected with the system;

31 (34) Solid Waste Disposal. To provide for the collection and disposal of garbage,
32 rubbish, and refuse and to regulate the collection and disposal of garbage, rubbish, and
33 refuse by others; and to provide for the separate collection of glass, tin, aluminum,
34 cardboard, paper, and other recyclable materials and to provide for the sale of such items;

35 (35) Special Areas of Public Regulation. To regulate or prohibit junk dealers, pawn
36 shops, the manufacture, sale, or transportation of intoxicating liquors, and the use and
37 sale of firearms; to regulate the transportation, storage, and use of combustible, explosive,

1 and inflammable materials, the use of lighting and heating equipment, and any other
 2 business or situation which may be dangerous to persons or property; to regulate and
 3 control the conduct of peddlers and itinerant traders, theatrical performances, exhibitions,
 4 and shows of any kind, by taxation or otherwise; and to license, tax, regulate, or prohibit
 5 adult oriented businesses, including, but not limited to, fortune telling, palmistry, adult
 6 bookstores, and massage parlors;

7 (36) Special Assessments. To levy and provide for the collection of special assessments
 8 to cover the costs for any public improvements;

9 (37) Taxes: Ad Valorem. To levy and provide for the assessment, valuation,
 10 revaluation, and collection of taxes on all property subject to taxation;

11 (38) Taxes: Other. To levy and collect such other taxes as may be allowed now or in
 12 the future by law.

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

17 (40) Urban Redevelopment. To organize and operate an urban redevelopment program;
 18 and

19 (41) Other Powers. To exercise and enjoy all other powers, functions, rights, privileges,
 20 and immunities necessary or desirable to promote or protect the safety, health, peace,
 21 security, good order, comfort, convenience, or general welfare of the city and its
 22 inhabitants; to exercise all implied powers necessary to carry into execution all powers
 23 granted in this charter as fully and completely as if such powers were fully stated herein;
 24 and to exercise all powers now or in the future authorized to be exercised by other
 25 municipal governments under other laws of the State of Georgia; and no listing of
 26 particular powers in this charter shall be held to be exclusive of others, nor restrictive of
 27 general words and phrases granting powers, but shall be held to be in addition to such
 28 powers unless expressly prohibited to municipalities under the constitution or applicable
 29 laws of the State of Georgia.

30 **SECTION 1.14.**

31 Exercise of powers.

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

1 **ARTICLE II**

2 **GOVERNMENT STRUCTURE**

3 **SECTION 2.10.**

4 City council creation, number, election.

5 The legislative authority of the government of this city, except as otherwise specifically
6 provided in this charter, shall be vested in a city council to be composed of a mayor and four
7 council members. The mayor and council members shall be elected in the manner provided
8 by this charter.

9 **SECTION 2.11.**

10 City council terms and qualifications for office.

11 The members of the city council shall serve for terms of four years and until their respective
12 successors are elected and qualified. No person shall be eligible to serve as mayor or council
13 member unless they shall be 21 years of age on or before the date of the election and shall
14 have been a resident of the city for one year immediately prior to the date of the election of
15 mayor or members of the city council. Each shall continue to reside therein during their
16 period of service and to be registered and qualified to vote in municipal elections of this city.

17 **SECTION 2.12.**

18 Vacancy; filling of vacancies.

19 (a) Vacancies - The office of mayor or council member shall become vacant upon the
20 incumbent's death, resignation, removal of residence from city, missing four consecutive city
21 council meetings without leave from council, forfeiture of office, or removal from office in
22 any manner authorized by this charter or the general laws of the State of Georgia. A vacancy
23 in the office of mayor or council member shall be filled for the remainder of the unexpired
24 term, if any, as provided for in this charter.

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

1 city council shall disclose such private interest and such disclosure shall be entered on the
 2 records of the city council, and they shall disqualify themselves from participating in any
 3 decision or vote relating thereto. Any elected official, appointed officer, or employee of any
 4 agency or political entity to which this charter applies who shall have any private financial
 5 interest, directly or indirectly, in any contract or matter pending before or within such entity
 6 shall disclose such private interest to the governing body of such agency or entity.

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

11 (d) Contracts Voidable and Rescindable - Any violation of this section which occurs with
 12 the knowledge, express or implied, of a party to a contract or sale shall render said contract
 13 or sale voidable at the option of the city official.

14 (e) Ineligibility of Elected Official - Except where authorized by law, neither the mayor nor
 15 any council member shall hold any other elective or compensated appointive office in the
 16 city or otherwise be employed by said government or any agency thereof during the term for
 17 which they were elected. No former mayor and no former council member shall hold any
 18 compensated appointive office in the city until one year after the expiration of the term for
 19 which they were elected.

20 (f) Political Activities of Certain Officers and Employees -No appointive officer and no
 21 employee of the city shall continue in such employment upon qualifying as a candidate for
 22 nomination or election to any public office.

23 (g) Penalties for Violation -

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

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

31 **SECTION 2.15.**

32 **Inquiries and investigations.**

33 The city council may make inquiries and investigations into the affairs of the city and the
 34 conduct of any department, office, or agency thereof and for this purpose may subpoena
 35 witnesses, administer oaths, take testimony, and require the production of evidence. Any

1 person who fails or refuses to obey a lawful order issued in the exercise of these powers by
2 the city council shall be punished as provided by ordinance.

3 **SECTION 2.16.**

4 General power and authority of the city council.

5 Except as otherwise provided by the charter, the city council shall be vested with all the
6 powers of government of this city as provided by Article I of this charter.

7 **SECTION 2.17.**

8 Eminent domain.

9 The city council is hereby empowered to acquire, construct, operate, and maintain public
10 ways, parks, public grounds, cemeteries, markets, market houses, public buildings, libraries,
11 sewers, drains, sewage treatment, waterworks, electrical systems, cable television systems,
12 gas systems, airports, hospitals, and charitable educational, recreational, sport curative,
13 corrective, detentional, penal, and medical institutions, agencies, and facilities, and any other
14 public improvements inside or outside the city; and, to regulate the use thereof and for such
15 purposes, property may be condemned under procedures established under general law
16 applicable now or as provided in the future.

17 **SECTION 2.18.**

18 Oath of office.

19 The oath of office shall be administered by a person duly authorized by law to administer
20 oaths to the newly elected members as follows:

21 "I do solemnly (swear) (affirm) that I will faithfully perform the duties of (mayor) (council
22 member) of this city and that I will support and defend the charter thereof as well as the
23 Constitution and laws of the State of Georgia and of the United States of America."

24 **SECTION 2.19.**

25 Regular and special meetings.

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

28 (b) Special meetings of the city council may be held on call of the mayor or two members
29 of the city council. Notice of such special meetings shall be served on all other members

1 personally, or by telephone personally, at least 24 hours in advance of the meeting. Such
2 notice to council members shall not be required if the mayor and all council members are
3 present when the special meeting is called. Such notice of any special meeting may be
4 waived by a council member in writing before or after such a meeting, and attendance at the
5 meeting shall also constitute a waiver of notice on any business transacted in such council
6 member's presence. Only the business stated in the call may be transacted at the special
7 meeting without unanimous consent of such council members present.

8 (c) All meetings of the city council shall be public to the extent required by law and notice
9 to the public of special meetings shall be made as required by law.

10 **SECTION 2.20.**

11 Rules of procedure.

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

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

18 **SECTION 2.21.**

19 Quorum: voting.

20 (a) Three council members shall constitute a quorum and shall be authorized to transact
21 business of the city council. Voting on the adoption of ordinances shall be by voice vote and
22 the vote shall be recorded in the journal, but any member of the city council shall have the
23 right to request a roll call vote and such vote shall be recorded in the journal. Except as
24 otherwise provided in this charter, the affirmative vote of three council members shall be
25 required for the adoption of any ordinance or resolution.

26 (b) In the event vacancies in office result in less than a quorum of council members holding
27 office, then the remaining council members in office shall constitute a quorum and shall be
28 authorized to transact business of the city council. A unanimous vote of all members of the
29 remaining council shall be required for the adoption of any ordinance or resolution.

1 shall not prevent reenactment of the ordinance in the manner specified in this section if the
 2 emergency still exists. An emergency ordinance may also be repealed by adoption of a
 3 repealing ordinance in the same manner specified in this section for adoption of emergency
 4 ordinances.

5 **SECTION 2.25.**

6 Codes of technical regulations.

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

10 (1) The requirements of subsection (b) of Section 2.22 of this charter for distribution and
 11 filing of copies of the ordinance shall be construed to include copies of any code of
 12 technical regulations, as well as the adopting ordinance; and

13 (2) A copy of each adopted code of technical regulations, as well as the adopting
 14 ordinance, shall be authenticated and recorded by the city clerk pursuant to Section 2.26
 15 of this charter.

16 (b) Copies of any adopted code of technical regulations shall be made available by the city
 17 clerk for distribution or for purchase at a reasonable price.

18 **SECTION 2.26.**

19 Signing; authenticating; recording; codification; printing.

20 (a) The city clerk shall authenticate by his or her signature and record in full in a properly
 21 indexed book kept for that purpose all ordinances adopted by the council.

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

30 (c) The city council shall cause each ordinance and each amendment to this charter to be
 31 printed promptly following its adoption, and the printed ordinances and charter amendments
 32 shall be made available for purchase by the public at reasonable prices to be fixed by the city
 33 council. Following publication of the first code under this charter and at all times thereafter,

1 the ordinances and charter amendments shall be printed in substantially the same style as the
 2 code currently in effect and shall be suitable in form for incorporation therein. The city
 3 council shall make such further arrangements as deemed desirable with reproduction and
 4 distribution of any current changes in or additions to codes of technical regulations and other
 5 rules and regulations included in the code.

6 **SECTION 2.27.**

7 City manager; appointment; qualifications; compensation.

8 The city council may employ a city manager for an indefinite term and shall fix the city
 9 manager's compensation. The city manager shall be employed solely on the basis of the city
 10 manager's executive and administrative qualifications.

11 **SECTION 2.28.**

12 Election of mayor; forfeiture; compensation.

13 The mayor shall be elected and serve for a term of four years and until the mayor's successor
 14 is elected and qualified. The mayor shall be a qualified elector of this city, and the mayor
 15 shall be 21 years of age on or before the date of the election, and the mayor shall have been
 16 a resident of the city for one year immediately preceding the mayor's election. The mayor
 17 shall continue to reside in this city during the period of the mayor's service. The mayor shall
 18 forfeit the mayor's office on the same grounds and under the same procedure as for council
 19 members. The compensation of the mayor shall be established in the same manner as for
 20 council members.

21 **SECTION 2.29.**

22 Chief executive officer.

23 The mayor shall be the chief executive officer of this city. The mayor shall possess all of the
 24 executive and administrative power granted to the city under the constitution and laws of the
 25 State of Georgia, and all the executive and administrative powers contained in this charter.

26 **SECTION 2.30.**

27 Powers and duties of mayor.

28 As the chief executive of this city, the mayor shall:

- 1 (1) Vote at city council meetings only in the case of a tie vote by council members;
 2 (2) See that all laws and ordinances of the city are faithfully executed;
 3 (3) Exercise supervision over all executive and administrative work of the city and
 4 provide for the coordination of administrative activities;
 5 (4) Prepare and submit to the city council a recommended operating budget and
 6 recommended capital budget;
 7 (5) Provide for an annual audit of all accounts of the city and such other information as
 8 the city council may request from time to time;
 9 (6) Recommend to the city council such measures relative to the affairs of the city,
 10 improvement of the government, and promotion of the welfare of its inhabitants as they
 11 may deem expedient;
 12 (7) Call special meetings of the city council as provided in subsection (b) of Section 2.19
 13 of this charter;
 14 (8) Require any department or agency of the city to submit written reports whenever they
 15 deem it expedient; and
 16 (9) Perform such other duties as may be required by law, this charter, or by ordinance.

17 **SECTION 2.31.**

18 Mayor pro tempore, election.

19 By a majority vote, the city council shall elect a council member to serve as mayor pro
 20 tempore.

21 **SECTION 2.32.**

22 Mayor pro tempore, power and duties.

23 During the absence or disability of the mayor for any cause, the mayor pro tempore, or in the
 24 mayor pro tempore's absence or disability for any reason any one of the council members
 25 chosen by a majority vote of the city council, shall be clothed with all the rights and
 26 privileges of the mayor and shall perform the duties of the office of the mayor so long as
 27 such absence or disability shall continue. Any such absence or disability shall be declared
 28 by majority vote of all council members.

29 **ARTICLE III**

30 **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, or alter 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 heads 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 heads of departments shall receive such compensation as prescribed by ordinance.

(d) There shall be a head of each department or agency who shall be its principal officer. Each department head shall, subject to the direction and supervision of the mayor, be responsible for the administration and direction of the affairs and operations of his or her department or agency.

(e) The power to employ or to discharge any employee of the city is vested in the city council. The city council may promulgate such policies as necessary for the administration and direction of the affairs and operations of the city and its employment practices.

SECTION 3.11.

Boards, commissions and authorities.

(a) The city council shall create by ordinances 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 provide by charter or by law, no member of any board, commission, or authority created pursuant to subsection (c) of this section above shall hold any elective office in the city.

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

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

8 (g) Any member of a board, commission, or authority may be removed from office for cause
9 by a vote of three members of the city council.

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

18

SECTION 3.12.

19

City attorney.

20 The city council shall appoint a city attorney, together with such assistant city attorneys as
21 may be authorized, and shall provide for the payment of such attorney or attorneys for
22 services rendered to the city. The city attorney shall be responsible for representing and
23 defending the city in all litigation in which the city is a party; may be the prosecuting officer
24 in the municipal court; shall attend the meetings of the council as directed; shall advise the
25 city council, mayor, and other officers and employees of the city concerning legal aspects of
26 the city's affairs; and shall perform such other duties as may be required of the city attorney
27 by virtue of the position as city attorney. The city attorney shall serve at the discretion of the
28 city council.

29

SECTION 3.13.

30

City clerk.

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

SECTION 3.14.

City treasurer.

The city council may appoint a financial officer to collect all taxes, licenses, fees, and other monies belonging to the city subject to the provisions of this charter and the ordinances of the city and to enforce all laws of Georgia relating to the collection of delinquent taxes and sale or foreclosure for nonpayment of taxes. The financial officer shall also be responsible for the general duties of a treasurer and fiscal officer.

SECTION 3.15.

City accountant.

The city council shall appoint a city accountant to perform the duties of an accountant. The city accountant shall serve at the discretion of the city council.

SECTION 3.16.

Position classification and pay plans.

The city council may provide 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 3.17.

Personnel policies.

The city council may provide for and adopt rules and regulations consistent with this charter concerning:

- (1) The method of employee selection and probationary periods of employment;
- (2) The administration of the position classification and pay plan, methods of promotion and application of service ratings thereto, and transfer of employees within the classification plan;
- (3) Hours of work, vacation, sick leave, and other leaves of absence, overtime pay, and the order and manner in which layoffs shall be effected;
- (4) Such dismissal hearings as due process may require; and

1 (5) Such other personnel notices as may be necessary to provide for adequate and
2 systematic handling of personnel affairs.

3 **SECTION 3.18.**

4 Consolidation of functions.

5 The city council may consolidate any two or more of the positions of city clerk, city
6 treasurer, city manager, city tax collector, or of any other positions or may assign the
7 functions of any one or more of such positions to the holder or holders of any other positions.

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 Lavonia.

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 they shall have attained the age of 21 years. All judges shall be appointed by the city council
19 and shall serve at the discretion of the city council.

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

21 (d) Judges may be removed for cause by a vote of a majority of the members present of the
22 city council.

23 (e) Before assuming office, each judge shall take an oath, given by the mayor, that such
24 person will honestly and faithfully discharge the duties of that office to the best of such
25 person's ability and without fear, favor, or partiality. The oath shall be entered upon the
26 minutes of the city council journal required in Section 2.20 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 \$300.00 or ten days in jail.

(c) The municipal court may fix punishment for offenses within its jurisdiction not exceeding a fine of \$3,500.00 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 state law or local ordinance.

(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 the 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 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 bail for his or her 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 courts 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 (i) The municipal court is specifically vested with all the jurisdiction and powers throughout
 6 the geographic area of this city granted by law to mayor's, recorder's, and police courts and
 7 particularly by such laws as authorize the abatement of nuisances and prosecution of traffic
 8 violations.

9 **SECTION 4.14.**

10 Certiorari.

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

15 **SECTION 4.15.**

16 Rules for court.

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

24 **ARTICLE V**

25 **ELECTIONS AND REMOVAL**

26 **SECTION 5.10.**

27 Applicability of general law.

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

1 remaining shall appoint a successor for the remainder of the term. In all other respects, the
 2 special election shall be held and conducted in accordance with Chapter 2 of Title 21 of the
 3 O.C.G.A., the "Georgia Election Code."

4 **SECTION 5.14.**

5 Other provisions.

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

9 **SECTION 5.15.**

10 Removal of officers.

11 (a) The mayor, council members, or other appointed officers provided for in this charter
 12 shall be removed from office for any one or more of the following causes:

- 13 (1) Incompetence, misfeasance, or malfeasance in office;
 14 (2) Conviction of a crime involving moral turpitude;
 15 (3) Failure at any time to possess any of the qualifications of office as provided by this
 16 charter or by law;
 17 (4) Knowingly violating any express prohibition of this charter;
 18 (5) Abandonment of office or neglect to perform the duties thereof; or
 19 (6) Failure for any other cause to perform the duties of office as required by this charter
 20 or by state law.

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

- 23 (1) By the vote of a majority of council members present after an investigative hearing.
 24 In the event an elected officer is sought to be removed by the action of the city council,
 25 such officer shall be entitled to a written notice specifying the ground or grounds for
 26 removal and to a public hearing which shall be held not less than ten days after the
 27 service of such written notice. Any elected officer sought to be removed from office as
 28 herein provided shall have the right of appeal from the decision of the city council to the
 29 Superior Court of Franklin County. Such appeal shall be governed by the same rules as
 30 govern appeals to the superior court from the probate court; or
 31 (2) By an order of the Superior Court of Franklin County following a hearing on a
 32 complaint seeking such removal brought by any resident of the City of Lavonia.

ARTICLE VI**FINANCE****SECTION 6.10.**

Property tax.

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.

SECTION 6.11.

Millage Rate; due dates; payment methods.

The city council, by ordinance, shall establish a millage rate for the city property tax, a due date, and the time period within which these taxes must be paid. 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.

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. Such taxes may be levied on both individuals and corporations who transact business in this city or who practice or offer to practice any profession or calling therein to the extent such persons have a constitutionally sufficient nexus to this city to be so taxed. The city council may classify businesses, occupations, professions or callings 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 any individuals or corporations who transact business in this city or who practice or offer to practice any

1 profession or calling therein to obtain a license or permit for such activity from the city and
2 pay a reasonable fee for such license or permit where such activities are not now regulated
3 by general law in such a way as to preclude city regulations. Such fees may reflect the total
4 cost to the city of regulating the activity and, if unpaid, shall be collected as provided in
5 Section 6.18 of this charter. The city council by ordinance may establish reasonable
6 requirements for obtaining or keeping such licenses as the public health, safety and welfare
7 necessitates.

8 **SECTION 6.14.**

9 Franchises.

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

20 **SECTION 6.15.**

21 Service charges.

22 The city council by ordinance shall have the power to assess and collect fees, charges, and
23 tolls for sewers, sanitary and health services, or any other services provided or made
24 available within and without the corporate limits of the city for the total cost to the city of
25 providing or making available such services. If unpaid, such charges shall be collected as
26 provided in Section 6.18 of this charter.

27 **SECTION 6.16.**

28 Special assessments.

29 The city council by ordinance shall have the power to assess and collect the cost of
30 constructing, reconstructing, widening, or improving any public way, street, sidewalk,
31 curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property

1 owners under such terms and conditions as are reasonable. If unpaid, such charges shall be
2 collected as provided in Section 6.18 of this charter.

3 **SECTION 6.17.**

4 Construction, other taxes.

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

8 **SECTION 6.18.**

9 Collection of delinquent taxes and fees.

10 The city council, by ordinance, may provide generally for the collection of delinquent taxes,
11 fees, or other revenue due the city under Sections 6.10 through 6.17 of this charter by
12 whatever reasonable means as are not precluded by law. This shall include providing for the
13 dates when the taxes or fees are due; late penalties or interest; issuance and execution of fi.
14 fas.; creation and priority of liens; making delinquent taxes and fees personal debts of the
15 persons required to pay the taxes or fees imposed; revoking city licenses for failure to pay
16 any city taxes or fees; and providing for the assignment or transfer of tax executions.

17 **SECTION 6.19.**

18 General obligations bonds.

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

23 **SECTION 6.20.**

24 Revenue bonds.

25 Revenue bonds may be issued by the city council as state law now or hereafter provides.
26 Such bonds are to be paid out of any revenue produced by the project, program, or venture
27 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.

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 6.23.

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 program, and a capital budget, including requirements as to the scope, content, and form of such budgets and programs.

SECTION 6.24.

Submission of operating budget to city council.

On or before a date fixed by the city council but not later than 45 days prior to the beginning of each fiscal year, the mayor 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 mayor 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 such other comments and information as the mayor may deem pertinent. The operating budget and the capital improvements budget hereinafter provided for, the budget message, and all supporting documents shall be filed in the office of the city clerk and shall be open to public inspection.

1 such purpose, but any additional appropriations may be made only from an existing
2 unexpended surplus.

3 **SECTION 6.28.**

4 Capital improvements budget.

5 (a) On or before the date fixed by the city council but no later than 45 days prior to the
6 beginning of each fiscal year, the mayor shall submit to the city council a proposed capital
7 improvements budget with the mayor's recommendations as to the means of financing the
8 improvements proposed for the ensuing fiscal year. The city council shall have the power
9 to accept, with or without amendments, or reject the proposed program and proposed means
10 of financing. The city council shall not authorize an expenditure for the construction of any
11 building, structure, work, or improvement, unless the appropriations for such project are
12 included in the capital improvements budget, except to meet a public emergency as provided
13 in Section 2.24 of this charter.

14 (b) The city council shall adopt by ordinance the final capital improvements budget for the
15 ensuing fiscal year. No appropriation provided for in a prior capital improvements budget
16 shall lapse until the purpose for which the appropriation was made shall have been
17 accomplished or abandoned; provided, however, the mayor may submit amendments to the
18 capital improvements budget at any time during the fiscal year, accompanied by the mayor's
19 recommendations. Any such amendments to the capital improvements budget shall become
20 effective only upon adoption by ordinance.

21 **SECTION 6.29.**

22 Independent audit.

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

28 **SECTION 6.30.**

29 Contracting procedures.

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

31 (1) It is in writing;

1 (2) It is drawn by or submitted and reviewed by the city attorney and, as a matter of
 2 course, is signed by the city attorney to indicate such drafting or review; and

3 (3) It is made or authorized by the city council and such approval is entered in the city
 4 council journal of proceedings pursuant to Section 2.21 of this charter.

5 **SECTION 6.31.**

6 Sale of city property.

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

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

13 (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place
 14 of the city, a small parcel or tract of land is cut off or separated by such work from a larger
 15 tract or boundary of land owned by the city, the city council may authorize the mayor to
 16 execute and deliver in the name of the city a deed conveying said cut-off or separated parcel
 17 or tract of land to an abutting or adjoining property owner or owners in exchange for rights
 18 of way of said street, avenue, alley, or public place when such swap is deemed to be in the
 19 best interest of the city. All deeds and conveyances heretofore and hereafter so executed and
 20 delivered shall convey all title and interest the city has in such property, notwithstanding the
 21 fact that no public sale after advertisement was or is hereafter made.

22 **ARTICLE VII**

23 **GENERAL PROVISIONS**

24 **SECTION 7.10.**

25 Bonds for officials.

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

SECTION 7.11.

Prior ordinances.

All ordinances, resolutions, rules, and regulations now in force in the city not inconsistent with this charter are hereby declared valid and of full effect and force until amended or repealed by the city council.

SECTION 7.12.

Existing personnel and officers.

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

SECTION 7.13.

Pending matters.

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

SECTION 7.14.

Construction.

(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.

SECTION 7.15.

Severability.

If any article, section, subsection, paragraph, sentence, or part thereof of this charter shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair other parts of this charter unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional, it being the legislative intent in enacting this charter that each article, section, subsection, paragraph, sentence, or part thereof be enacted separately and independent of each other.

SECTION 7.16.

Repealer.

An Act incorporating the City of Lavonia in the County of Franklin, approved June 4, 1964 (Ga. L. 1964, Ex. Sess., p. 2008), as amended, is hereby repealed in its entirety, and all amendatory Acts thereto are likewise repealed in their entirety.

SECTION 7.17.

General Repealer.

All other laws and parts of laws in conflict with this charter are hereby repealed.

SECTION 7.18.

Effective date.

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