

House Bill 1574

By: Representative Houston of the 166th

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the City of Berlin, Georgia; to provide for incorporation,
2 boundaries, and powers of the city; to provide for a governing authority of such city and the
3 powers, 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 mayor and mayor pro tempore and certain duties,
8 powers, and other matters relative thereto; to provide for administrative affairs and
9 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 repeal a specific Act; to provide for severability; to provide an effective
21 date; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.13.

Examples of powers.

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

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

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

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

(4) Business regulation and taxation. To levy and to provide for collection of regulatory fees and taxes on privileges, occupations, trades, and professions as authorized by Title 48 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted; to permit and regulate the same; to provide for the manner and method of payment of such regulatory fees and taxes; and to revoke such permits after due process for failure to pay any city taxes or fees;

(5) 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 now or may hereafter be enacted;

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

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

(8) Environmental protection. To protect and preserve the natural resources, environment, and vital areas of the state through the preservation and improvement of air quality, the restoration and maintenance of water resources, the control of erosion and sedimentation, the management of solid and hazardous waste, and other necessary actions for the protection of the environment;

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

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

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

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

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

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

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

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

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

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

- 1 (19) Municipal property protection. To provide for the preservation and protection of
2 property and equipment of the city and the administration and use of same by the public;
3 and to prescribe penalties and punishment for violations thereof;
- 4 (20) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose
5 of public utilities, including but not limited to a system of waterworks, sewers and drains,
6 sewage disposal, gas works, electric light plants, cable television and other
7 telecommunications, transportation facilities, public airports, and any other public utility;
8 and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties and
9 to provide for the withdrawal of service for refusal or failure to pay the same;
- 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 ensure a safe, healthy, and esthetically pleasing community;
- 17 (24) Police and fire protection. To exercise the power of arrest through duly appointed
18 police officers and to establish, operate, or contract for a police and a fire-fighting
19 agency;
- 20 (25) Public hazards; removal. To provide for the destruction and removal of any
21 building or other structure which is or may become dangerous or detrimental to the
22 public;
- 23 (26) Public improvements. To provide for the acquisition, construction, building,
24 operation, and maintenance of public ways, parks and playgrounds, public grounds,
25 recreational facilities, cemeteries, markets and market houses, public buildings, libraries,
26 public housing, airports, hospitals, terminals, docks, parking facilities, and charitable,
27 cultural, educational, recreational, conservation, sport, curative, corrective, detentional,
28 penal, and medical institutions, agencies, and facilities; and to provide any other public
29 improvements, inside or outside the corporate limits of the city; to regulate the use of
30 public improvements; and, for such purposes, property may be acquired by condemnation
31 under Title 22 of the O.C.G.A. or such other applicable laws as are now or may hereafter
32 be enacted;
- 33 (27) Public peace. To provide for the prevention and punishment of drunkenness, riots,
34 and public disturbances;
- 35 (28) Public transportation. To organize and operate such public transportation systems
36 as are deemed beneficial;

- 1 (29) Public utilities and services. To grant franchises or make contracts for or impose
2 taxes on public utilities and public service companies and to prescribe the rates, fares,
3 regulations, and standards and conditions of service applicable to the service to be
4 provided by the franchise grantee or contractor, insofar as not in conflict with valid
5 regulations of the Georgia Public Service Commission;
- 6 (30) Regulation of roadside areas. To prohibit or regulate and control the erection,
7 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any
8 and all other structures or obstructions upon or adjacent to the rights of way of streets and
9 roads or within view thereof, within or abutting the corporate limits of the city; and to
10 prescribe penalties and punishment for violation of such ordinances;
- 11 (31) Retirement. To provide and maintain a retirement plan for officers and employees
12 of the city;
- 13 (32) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade
14 of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise
15 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and
16 walkways within the corporate limits of the city; and to grant franchises and rights of way
17 throughout the streets and roads and over the bridges and viaducts for the use of public
18 utilities; and to require real estate owners to repair and maintain in a safe condition the
19 sidewalks adjoining their lots or lands and to impose penalties for failure to do so;
- 20 (33) Sewer fees. To levy a fee, charge, or sewer tax as necessary to ensure the acquiring,
21 constructing, equipping, operating, maintaining, and extending of a sewage disposal plant
22 and sewerage system and to levy on those to whom sewers and sewerage systems are
23 made available a sewer service fee, charge, or sewer tax for the availability or use of the
24 sewers; to provide for the manner and method of collecting such service charges and for
25 enforcing payment of the same; and to charge, impose, and collect a sewer connection fee
26 or fees to those connected with the system;
- 27 (34) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish,
28 and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by
29 others; and to provide for the separate collection of glass, tin, aluminum, cardboard,
30 paper, and other recyclable materials and to provide for the sale of such items;
- 31 (35) Special areas of public regulation. To regulate or prohibit junk dealers, pawn shops,
32 the manufacture, sale, or transportation of any intoxicating liquors, and the use and sale
33 of firearms; to regulate the transportation, storage, and use of combustible, explosive, and
34 inflammable materials, the use of lighting and heating equipment, and any other business
35 or situation which may be dangerous to persons or property; to regulate and control the
36 conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows

1 of any kind, by taxation or otherwise; and to license, tax, regulate, or prohibit
 2 professional fortunetelling, palmistry, adult bookstores, and massage parlors;

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

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

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

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

13 (40) Urban redevelopment. To organize and operate an urban redevelopment program;
 14 and

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

26 **SECTION 1.14.**

27 Exercise of powers.

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

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

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

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

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

24 (g) Political activities of certain officers and employees. No appointed officer of the city
25 shall continue in such employment upon qualifying as a candidate for nomination or
26 election to any public office. No employee of the city shall continue in such employment
27 upon election to any public office in this city or of any other public office which is
28 inconsistent, incompatible, or in conflict with the duties of the city employee. Such
29 determination shall be made by the mayor and city council either immediately upon
30 election or at any time such conflict may arise.

31 (h) Penalties for violation.

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

35 (2) Any officer or employee of the city who shall forfeit an office or position as
36 described in paragraph (1) of this subsection shall be ineligible for appointment or
37 election to or employment for a period of three years thereafter.

SECTION 2.15.

Inquiries and investigations.

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

SECTION 2.16.

General power and authority of the city council.

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

SECTION 2.17.

Eminent domain.

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

SECTION 2.18.

Organizational meetings.

The city council shall hold an organizational meeting on the second Monday night of each month. The meeting shall be called to order by the mayor and the oath of office shall be administered to the newly elected members as follows:

"I do solemnly (swear) (affirm) that I will faithfully perform the duties of (mayor)(councilmember) of this city and that I will support and defend the charter thereof

1 as well as the Constitution and laws of the State of Georgia and the United States of
2 America."

3 **SECTION 2.19.**

4 Meetings.

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

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

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

20 **SECTION 2.20.**

21 Rules and procedure.

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

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

SECTION 2.21.

Quorum; voting.

Three councilmembers shall constitute a quorum and shall be authorized to transact business of the city council. Voting on the adoption of ordinances shall be by voice vote and the vote shall be recorded in the journal, but any member of the city council shall have the right to request a roll call vote and such vote shall be recorded in the journal. Except as otherwise provided in this charter, the affirmative vote of three councilmembers shall be required for the adoption of any ordinance, resolution, or motion. An abstention shall be counted as an affirmative vote.

SECTION 2.22.

Ordinance form; procedures.

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

(b) An ordinance may be introduced by any councilmember and be read at a regular or special meeting of the city council. Ordinances shall be considered and adopted or rejected by the city council in accordance with the rules which it shall establish; provided, however, an ordinance shall not be adopted the same day it is introduced, except for emergency ordinances provided for in Section 2.24 of this charter. Upon introduction of any ordinance, the clerk shall as soon as possible distribute a copy to the mayor and to each councilmember and shall file a reasonable number of copies in the office of the clerk and at such other public places as the city council may designate.

SECTION 2.23.

Action requiring an ordinance.

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

SECTION 2.28.

Chief executive officer.

The mayor shall be the chief executive of this city. The mayor shall possess all of the executive and administrative power granted to the city under the Constitution and laws of the State of Georgia and all the executive powers contained in this charter.

SECTION 2.29.

Powers and duties of mayor.

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

- (1) See that all laws and ordinances of the city are faithfully executed;
- (2) Appoint and remove all officers, department heads, and employees of the city, except as otherwise provided in this charter;
- (3) Exercise supervision over all executive and administrative work of the city and provide for the coordination of administrative activities;
- (4) Prepare and submit to the city council a recommended operating budget and capital budget;
- (5) Submit to the city council at least once a year a statement covering the financial conditions of the city and, from time to time, such other information as the city council may request;
- (6) Recommend to the city council such measures relative to the affairs of the city, improvement of the government, and promotion of the welfare of its inhabitants as the mayor may deem expedient;
- (7) Call special meetings of the city council as provided for in subsection (b) of Section 2.19 of this charter;
- (8) Approve or disapprove of ordinances as provided in Section 2.31 of this charter;
- (9) Provide for an annual audit of all accounts of the city;
- (10) Require any department or agency of the city to submit written reports whenever the mayor deems it expedient; and
- (11) Perform such other duties as may be required by law, this charter, or by ordinance.

SECTION 2.30.

Limitation on terms of service.

No mayor elected and qualified for four consecutive terms shall be eligible for a succeeding term.

SECTION 2.31.

Submission of ordinances to the mayor;
veto power.

(a) Every ordinance adopted by the city council shall be presented promptly by the clerk to the mayor.

(b) The mayor, within ten calendar days of receipt of an ordinance, shall return it to the clerk with or without the mayor's approval or with the mayor's disapproval. If the ordinance has been approved by the mayor, it shall become law upon its return to the clerk; if the ordinance is neither approved nor disapproved, it shall become a law at 12:00 Noon on the tenth calendar day after its adoption; if the ordinance is disapproved, the mayor shall submit to the city council through the clerk a written statement of reasons for the veto. The clerk shall record upon the ordinance the date of its delivery to and receipt from the mayor.

(c) Ordinances vetoed by the mayor shall be presented by the clerk to the city council at its next meeting. If the city council then or at its next meeting adopts the ordinance by an affirmative vote of three members, it shall become law.

(d) The mayor may disapprove or reduce any item or items of appropriation in any ordinance. The approved part or parts of any ordinance making appropriations shall become law, and the part or parts disapproved shall not become law unless subsequently passed by the city council over the mayor's veto as provided in this charter. The reduced part or parts shall be presented to city council as though disapproved and shall not become law unless overridden by the council as provided in subsection (c) of this section.

SECTION 2.32.

Mayor pro tempore; selection; duties.

By a majority vote, the city council shall elect a councilmember to serve as mayor pro tempore. The mayor pro tempore shall preside at all meetings of the city council and shall assume the duties and powers of the mayor upon the mayor's physical or mental disability or absence. The city council by a majority vote shall elect a new presiding officer from among its members for any period in which the mayor pro tempore is disabled, absent, or

1 acting as mayor. Any such absence or disability shall be declared by majority vote of all
2 councilmembers.

3 ARTICLE III

4 ADMINISTRATIVE AFFAIRS

5 SECTION 3.10.

6 Administrative and service departments.

7 (a) Except as otherwise provided in this charter, the city council by ordinance shall prescribe
8 the functions or duties and establish, abolish, alter, consolidate, or leave vacant all
9 nonelective offices, positions of employment, departments, and agencies of the city as
10 necessary for the proper administration of the affairs and government of this city.

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

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

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

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

24 SECTION 3.11.

25 Boards, commissions, and authorities.

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

30 (b) All members of boards, commissions, and authorities of the city shall be appointed by
31 the city council for such terms of office and in such manner as shall be provided by

1 ordinance, except where other appointing authority, terms of office, or manner of
2 appointment is prescribed by this charter or by law.

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

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

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

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

14 (g) All board members of the city serve at will and may be removed at any time by a vote
15 of three members of the city council unless otherwise provided by law.

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

23 **SECTION 3.12.**

24 City attorney.

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

SECTION 3.13.

City clerk.

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

SECTION 3.14.

Personnel policies.

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

ARTICLE IV**JUDICIAL BRANCH****SECTION 4.10.**

Creation; name.

There shall be a court in this city to be known as the Municipal Court of the City of Berlin.

SECTION 4.11.

Chief Judge; Associate Judge.

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

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

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

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

(e) Before assuming office, each judge shall take an oath, given by the mayor, that the judge will honestly and faithfully discharge the duties of the office to the best of that person's

1 ability and without fear, favor, and partiality. The oath shall be entered upon the minutes of
2 the city council journal required in Section 2.20 of this charter.

3 **SECTION 4.12.**

4 Convening.

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

6 **SECTION 4.13.**

7 Jurisdiction; powers.

8 (a) The municipal court shall try and punish violations of this charter, all city ordinances,
9 and such other violations as provided by law.

10 (b) The municipal court shall have authority to punish those in its presence for contempt,
11 provided that such punishment shall not exceed \$200.00 or ten days in jail.

12 (c) The municipal court may fix punishment for offenses within its jurisdiction not
13 exceeding a fine of \$1,000.00 or imprisonment for 12 months or both or may fix punishment
14 by fine, imprisonment, or alternative sentencing as now, or hereafter provided by law.

15 (d) The municipal court shall have authority to establish a schedule of fees to defray the cost
16 of operation and shall be entitled to reimbursement of the cost of meals, transportation, and
17 caretaking of prisoners bound over to superior courts for violations of state law.

18 (e) The municipal court shall have authority to establish bail and recognizances to ensure
19 the presence of those charged with violations before said court and shall have discretionary
20 authority to accept cash or personal or real property as surety for the appearance of persons
21 charged with violations. Whenever any person shall give bail for that person's appearance
22 and shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge
23 presiding at such time and an execution issued thereon by serving the defendant and the
24 defendant's sureties with a rule nisi at least two days before a hearing on the rule nisi. In the
25 event that cash or property is accepted in lieu of bond for security for the appearance of a
26 defendant failing to appear at the time and place fixed for trial, the cash so deposited shall
27 be on order of the judge declared forfeited to the city, or the property so deposited shall have
28 a lien against it for the value forfeited which lien shall be enforceable in the same manner
29 and to the same extent as a lien for city property taxes.

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

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

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

8 **SECTION 4.14.**

9 Certiorari.

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

14 **SECTION 4.15.**

15 Rules for court.

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

23 **ARTICLE V**

24 **ELECTIONS AND REMOVAL**

25 **SECTION 5.10.**

26 Applicability of general law.

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

SECTION 5.11.

Regular elections; time for holding.

(a) There shall be a municipal general election biennially in odd-numbered years on the Tuesday next following the first Monday in November.

(b) There shall be elected the mayor and two councilmembers at one election and at every other election thereafter. The remaining city council seats shall be filled at the election alternating with the first election so that a continuing body is created.

SECTION 5.12.

Nonpartisan elections.

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

SECTION 5.13.

Election by majority vote.

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

SECTION 5.14.

Special elections; vacancies.

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

SECTION 5.15.

Other provisions.

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

SECTION 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. The city council may classify businesses, occupations, or professions for the purpose of such taxation in any way which may be lawful and may compel the payment of such taxes as provided in Section 6.17 of this charter.

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 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 6.17 of this charter.

SECTION 6.14.

Franchises.

(a) The city council shall have the power to grant franchises for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies, and other similar organizations. The city council shall determine the duration, terms, whether the same shall be exclusive or nonexclusive, and the consideration for such franchises; provided, however, 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 clerk.

1 The city council may provide by ordinance for the registration within a reasonable time of
2 all franchises previously granted.

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

8 **SECTION 6.15.**

9 Service charges.

10 The city council by ordinance shall have the power to assess and collect fees, charges, and
11 tolls for sewers, sanitary and health services, or any other services provided or made
12 available within and outside the corporate limits of the city for the total cost to the city of
13 providing or making available such services. If unpaid, such charges shall be collected as
14 provided in Section 6.17 of this charter.

15 **SECTION 6.16.**

16 Special assessments.

17 The city council by ordinance shall have the power to assess and collect the cost of
18 constructing, reconstructing, widening, or improving any public way, street, sidewalk,
19 curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property
20 owners under such terms and conditions as are reasonable. If unpaid, such charges shall be
21 collected as provided in Section 6.17 of this charter.

22 **SECTION 6.17.**

23 Collection of delinquent taxes and fees.

24 The city council by ordinance may provide generally for the collection of delinquent taxes,
25 fees, or other revenue due the city under Sections 6.10 through 6.16 of this charter by
26 whatever reasonable means as are not precluded by law. This shall include providing for the
27 dates when the taxes or fees are due; late penalties or interest; issuance and execution of fi.
28 fas.; creation and priority of liens; making delinquent taxes and fees personal debts of the
29 persons required to pay the taxes or fees imposed; revoking city permits for failure to pay any
30 city taxes or fees; and providing for the assignment or transfer of tax executions.

SECTION 6.18.

General obligation bonds.

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

SECTION 6.19.

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 6.20.

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 6.21.

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 in 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 6.22.

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

SECTION 6.24.

Submission of operating budget to city council.

On or before a date fixed by the city council but not later than 60 days prior to the beginning of each fiscal year, the 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 other pertinent comments and information. The operating budget and the capital budget provided for in Section 6.28 of this charter, the budget message, and all supporting documents shall be filed in the office of the city clerk and shall be open to public inspection.

SECTION 6.25.

Action by city council on budget.

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

1 (b) The city council by ordinance shall adopt the final operating budget for the ensuing fiscal
 2 year not later than the first day of February of each year. If the city council fails to adopt the
 3 budget by such date, the amounts appropriated for operation for the then current fiscal year
 4 shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items
 5 prorated accordingly, until such time as the city council adopts a budget for the ensuing fiscal
 6 year. Adoption of the budget shall take the form of an appropriations ordinance setting out
 7 the estimated revenues in detail by sources and making appropriations according to fund and
 8 by organizational unit, purpose, or activity as set out in the budget preparation ordinance
 9 adopted pursuant to Section 6.23 of this charter.

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

14 **SECTION 6.26.**

15 Levy of taxes.

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

22 **SECTION 6.27.**

23 Changes in appropriations.

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

28 **SECTION 6.28.**

29 Capital budget.

30 (a) On or before the date fixed by the city council, but no later than 60 days from the
 31 beginning of each fiscal year, the mayor shall submit to the city council a proposed capital

1 improvements plan with a recommended capital budget containing the means of financing
 2 the improvements proposed for the ensuing fiscal year. The city council shall have power
 3 to accept, with or without amendments, or reject the proposed plan and budget. The city
 4 council shall not authorize an expenditure for the construction of any building, structure,
 5 work, or improvement unless the appropriations for such project are included in the budget,
 6 except to meet a public emergency as provided in Section 2.24 of this charter.

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

14 **SECTION 6.29.**

15 Independent audits.

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

21 **SECTION 6.30.**

22 Contracting procedures.

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

- 24 (1) It is in writing;
 25 (2) It is drawn by or submitted and reviewed by the city attorney and, as a matter of
 26 course, is signed by the city attorney to indicate such drafting or review; and
 27 (3) It is made or authorized by the city council and such approval is entered in the city
 28 council journal of proceedings pursuant to Section 2.20 of this charter.

SECTION 7.11.

Prior ordinances.

All ordinances, resolutions, rules, and regulations now in force in the city not inconsistent with this charter are 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 this city and their rights, privileges, and powers shall continue beyond the time this charter takes effect for a period of 120 days before or during which time 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 ongoing 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 and definitions.

(a) Section captions in this charter are informative only and are not 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 nor 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.

Specific repealer.

An Act incorporating the City of Berlin in the County of Colquitt, State of Georgia, approved February 3, 1976 (Ga. L. 1976, p. 2509), is repealed in its entirety and all amendatory Acts thereto are likewise repealed in their entirety. All other laws and parts of laws in conflict with this charter are repealed.

SECTION 7.17.

Effective date.

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

SECTION 7.18.

General repealer.

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