

House Bill 1727

By: Representative Hudgens of the 24<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

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

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:



1 any ordinance or lawful order; to provide for the disposition by sale, gift, or humane  
2 destruction of animals and fowl when not redeemed as provided by ordinance; and to  
3 provide punishment for violation of ordinances enacted under this charter;

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

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

11 (4) Business regulation and taxation. To levy and to provide for collection of regulatory  
12 fees and taxes on privileges, occupations, trades, and professions as authorized by Title  
13 48 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted; to  
14 permit and regulate the same; to provide for the manner and method of payment of such  
15 regulatory fees and taxes; and to revoke such permits after due process for failure to pay  
16 any city taxes or fees;

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

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

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

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

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

36 (10) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection  
37 and disposal and other sanitary service charge, tax, or fee for such services as may be

1 necessary in the operation of the city from all individuals, firms, and corporations  
2 residing in or doing business in the city benefiting from such services; to enforce the  
3 payment of such charges, taxes, or fees; and to provide for the manner and method of  
4 collecting such service charges;

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

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

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

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

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

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

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

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

32 (19) Municipal property protection. To provide for the preservation and protection of  
33 property and equipment of the city and the administration and use of same by the public;  
34 and to prescribe penalties and punishment for violations thereof;

35 (20) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose  
36 of public utilities, including but not limited to a system of waterworks, sewers and drains,  
37 sewage disposal, gas works, electric light plants, cable television and other

1 telecommunications, transportation facilities, public airports, and any other public utility;  
2 and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties and  
3 to provide for the withdrawal of service for refusal or failure to pay the same;

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

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

8 (23) Planning and zoning. To provide comprehensive city planning for development by  
9 zoning; and to provide subdivision regulation and the like as the city council deems  
10 necessary and reasonable to ensure a safe, healthy, and esthetically pleasing community;

11 (24) Police and fire protection. To exercise the power of arrest through duly appointed  
12 police officers and to establish, operate, or contract for a police and a fire-fighting  
13 agency;

14 (25) Public hazards; removal. To provide for the destruction and removal of any building  
15 or other structure which is or may become dangerous or detrimental to the public;

16 (26) Public improvements. To provide for the acquisition, construction, building,  
17 operation, and maintenance of public ways, parks and playgrounds, public grounds,  
18 recreational facilities, cemeteries, markets and market houses, public buildings, libraries,  
19 sewers, drains, sewage treatment, waterworks, electrical systems, gas systems, other  
20 public utilities, public housing, airports, hospitals, terminals, docks, parking facilities, and  
21 charitable, cultural, educational, recreational, conservation, sport, curative, corrective,  
22 detentional, penal, and medical institutions, agencies, and facilities; and to provide any  
23 other public improvements, inside or outside the corporate limits of the city; to regulate  
24 the use of public improvements; and, for such purposes, property may be acquired by  
25 condemnation under Title 22 of the O.C.G.A. or such other applicable laws as are now  
26 or may hereafter be enacted;

27 (27) Public peace. To provide for the prevention and punishment of drunkenness, riots,  
28 and public disturbances;

29 (28) Public transportation. To organize and operate such public transportation systems  
30 as are deemed beneficial;

31 (29) Public utilities and services. To grant franchises or make contracts for or impose  
32 taxes on public utilities and public service companies and to prescribe the rates, fares,  
33 regulations, and standards and conditions of service applicable to the service to be  
34 provided by the franchise grantee or contractor, insofar as not in conflict with valid  
35 regulations of the Georgia Public Service Commission;

36 (30) Regulation of roadside areas. To prohibit or regulate and control the erection,  
37 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any

1 and all other structures or obstructions upon or adjacent to the rights of way of streets and  
2 roads or within view thereof, within or abutting the corporate limits of the city; and to  
3 prescribe penalties and punishment for violation of such ordinances;

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

6 (32) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade  
7 of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise  
8 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and  
9 walkways within the corporate limits of the city; and to negotiate and execute leases over,  
10 through, under, or across any city property or the right of way of any street, road, alley,  
11 and walkway or portion thereof within the corporate limits of the city, for bridges,  
12 passageways, or any other purpose or use between buildings on opposite sides of the  
13 street and for other bridges, overpasses, and underpasses for private use at such location,  
14 and to charge a rental therefor in such manner as may be provided by ordinance; and to  
15 authorize and control the construction of bridges, overpasses, and underpasses within the  
16 corporate limits of the city; and to grant franchises and rights of way throughout the  
17 streets and roads and over the bridges and viaducts for the use of public utilities; and to  
18 require real estate owners to repair and maintain in a safe condition the sidewalks  
19 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 assure 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 of  
33 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 1.13.**

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 becomes permanent, then the office shall become vacant and shall be filled for the remainder  
2 of the unexpired term, if any, as provided for in this charter.

3 **SECTION 2.13.**

4 Compensation and expenses.

5 The mayor and councilmembers shall receive compensation and expenses for their services  
6 as provided by ordinance.

7 **SECTION 2.14.**

8 Conflicts of interest; holding other offices.

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

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

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

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

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

26 (4) Accept any valuable gift, whether in the form of service, loan, thing, or promise,  
27 from any person, firm, or corporation which to that person's knowledge is interested,  
28 directly or indirectly, in any manner whatsoever, in business dealings with the  
29 governmental body by which that person is engaged; provided, however, that an elected  
30 official who is a candidate for public office may accept campaign contributions and  
31 services in connection with any such campaign;

- 1 (5) Represent other private interests in any action or proceeding against this city or any  
2 portion of its government; or
- 3 (6) Vote or otherwise participate in the negotiation or in the making of any contract with  
4 any business or entity in which that person has a financial interest.
- 5 (c) Disclosure—Any elected official, appointed officer, or employee who shall have any  
6 private financial interest, directly or indirectly, in any contract or matter pending before or  
7 within any department of the city shall disclose such private interest to the city council. The  
8 mayor or any councilmember who has a private financial interest in any matter pending  
9 before the city council shall disclose such private interest and such disclosure shall be entered  
10 on the records of the city council, and that person shall disqualify himself or herself from  
11 participating in any decision or vote relating thereto. Any elected official, appointed officer,  
12 or employee of any agency or political entity to which this charter applies who shall have any  
13 private financial interest, directly or indirectly, in any contract or matter pending before or  
14 within such entity shall disclose such private interest to the governing body of such agency  
15 or entity.
- 16 (d) Use of public property—No elected official, appointed officer, or employee of the city  
17 or any agency or entity to which this charter applies shall use property owned by such  
18 governmental entity for personal benefit, convenience, or profit except in accordance with  
19 policies promulgated by the city council or the governing body of such agency or entity.
- 20 (e) Contracts voidable and rescindable—Any violation of this section which occurs with the  
21 knowledge, express or implied, of a party to a contract or sale shall render such contract or  
22 sale voidable at the option of the city council.
- 23 (f) Ineligibility of elected official—Except where authorized by law, neither the mayor nor  
24 any councilmember shall hold any other elective or compensated appointive office in the city  
25 or otherwise be employed by said government or any agency thereof during the term for  
26 which that person was elected.
- 27 (g) Political activities of certain officers and employees—No appointed officer and no  
28 employee of the city shall continue in such employment upon qualifying as a candidate for  
29 nomination or election to any public office.
- 30 (h) Penalties for violation—
- 31 (1) Any city officer or employee who knowingly conceals such financial interest or  
32 knowingly violates any of the requirements of this section shall be guilty of malfeasance  
33 in office or position and shall be deemed to have forfeited that person's office or position.
- 34 (2) Any officer or employee of the city who shall forfeit that person's office or position  
35 as described in paragraph (1) of this subsection shall be ineligible for appointment or  
36 election to or employment in a position in the city government for a period of three years  
37 thereafter.



1 meeting shall also constitute a waiver of notice on any business transacted in such  
 2 councilmember's presence. Only the business stated in the call may be transacted at the  
 3 special meeting.

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

8 **SECTION 2.19.**

9 Rules of procedure.

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

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

16 **SECTION 2.20.**

17 Quorum; voting.

18 The mayor or mayor pro tempore and two councilmembers shall constitute a quorum and  
 19 shall be authorized to transact business of the city council. Voting on the adoption of  
 20 ordinances shall be by voice vote and the vote shall be recorded in the journal, but any  
 21 member of the city council shall have the right to request a roll-call vote and such vote shall  
 22 be recorded in the journal. Except as otherwise provided in this charter, the affirmative vote  
 23 of three councilmembers shall be required for the adoption of any ordinance.

24 **SECTION 2.21.**

25 Ordinance form; procedures.

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

30 (b) An ordinance may be introduced by any councilmember and be read at a regular or  
 31 special meeting of the city council. Ordinances shall be considered and adopted or rejected

1 by the city council in accordance with the rules which it shall establish. Upon introduction  
2 of any ordinance, the clerk shall as soon as possible distribute a copy to the mayor and to  
3 each councilmember and shall file a reasonable number of copies in the office of the clerk  
4 and at such other public places as the city council may designate.

5 **SECTION 2.22.**

6 Action requiring an ordinance.

7 Acts of the city council which have the force and effect of law shall be enacted by ordinance,  
8 resolution, or motion recorded in the minutes of the city council.

9 **SECTION 2.23.**

10 Emergencies.

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

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

**SECTION 2.24.**

Codes of technical regulations.

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

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

**SECTION 2.25.**

Signing; authenticating;  
recording; codification; printing.

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

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

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

1                                   **SECTION 2.26.**

2                                   Mayor pro tempore.

3 By a majority vote the city council shall annually elect a councilmember to serve as mayor  
4 pro tempore. The mayor pro tempore shall preside at all meetings of the city council and  
5 shall assume the duties and powers of the mayor upon the mayor's disability or absence. The  
6 city council by a majority vote shall elect a new presiding officer from among its members  
7 for any period in which the mayor pro tempore is disabled, absent, or acting as mayor. Any  
8 such absence or disability shall be declared by majority vote of all councilmembers.

9                                   **SECTION 2.27.**

10                                  Powers and duties of mayor.

11 The mayor shall:

- 12       (1) Preside at all meetings of the city council;
- 13       (2) Be the head of the city for the purpose of service of process and for ceremonial  
14 purposes and be the official spokesperson for the city and the chief advocate of policy;
- 15       (3) Have power to administer oaths and to take affidavits;
- 16       (4) Sign as a matter of course on behalf of the city all written and approved contracts,  
17 ordinances, and other instruments executed by the city which by law are required to be  
18 in writing;
- 19       (5) Vote on matters before the city council but only for the purpose of breaking a tie;
- 20       (6) Prepare and submit to the city council a recommended annual operating budget and  
21 recommended capital budget; and
- 22       (7) Fulfill such other executive and administrative duties as the city council shall by  
23 ordinance establish.

24                                  **SECTION 2.28.**

25                                  Election of mayor; forfeiture; compensation.

26 The mayor shall be elected and shall serve for a term of two years and until the mayor's  
27 successor is elected and qualified. The mayor shall be a qualified elector of this city and  
28 shall have been a resident of the city for six months prior to the election. The mayor shall  
29 continue to reside in this city during the period of the mayor's service. The mayor shall  
30 forfeit the office of mayor on the same grounds and under the same procedure as for  
31 councilmembers. The compensation of the mayor shall be established in the same manner  
32 as for councilmembers.



- 1 (d) Except as otherwise provided by charter or by law, no member of any board,  
2 commission, or authority shall hold any elective office in the city.
- 3 (e) Any vacancy on a board, commission, or authority of the city shall be filled for the  
4 unexpired term in the manner prescribed in this charter for original appointment, except as  
5 otherwise provided by this charter or by law.
- 6 (f) No member of a board, commission, or authority shall assume office until that person has  
7 executed and filed with the clerk of the city an oath obligating that person to perform  
8 faithfully and impartially the duties of that person's office, such oath shall be prescribed by  
9 ordinance and administered by the mayor.
- 10 (g) All members of boards, commissions, or authorities of the city serve at will and may be  
11 removed at any time by a vote of three members of the city council unless otherwise  
12 provided by law.
- 13 (h) Except as otherwise provided by this charter or by law, each board, commission, or  
14 authority of the city shall elect one of its members as chairperson and one member as vice  
15 chairperson and may elect as its secretary one of its own members or may appoint as  
16 secretary an employee of the city. Each board, commission, or authority of the city  
17 government may establish such bylaws, rules, and regulations, not inconsistent with this  
18 charter, ordinances of the city, or law, as it deems appropriate and necessary for the  
19 fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and  
20 regulations shall be filed with the clerk of the city.

21 **SECTION 3.12.**

22 City attorney.

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



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

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

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

8 (e) Before assuming office, each judge shall take an oath, given by the mayor, that such  
9 judge will honestly and faithfully discharge the duties of the judge's office to the best of the  
10 judge's ability and without fear, favor, or partiality. The oath shall be entered upon the  
11 minutes of the city council journal required in Section 2.19 of this charter.

#### 12 **SECTION 4.12.**

##### 13 Convening.

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

#### 15 **SECTION 4.13.**

##### 16 Jurisdiction; powers.

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

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

21 (c) The municipal court may fix punishment for offenses within its jurisdiction not  
22 exceeding a fine of \$1000.00 or imprisonment for one year or both such fine and  
23 imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing, as  
24 now or hereafter provided by law.

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

28 (e) The municipal court shall have authority to establish bail and recognizances to ensure  
29 the presence of those charged with violations before such court and shall have discretionary  
30 authority to accept cash or personal or real property as surety for the appearance of persons  
31 charged with violations. Whenever any person shall give bail for that person's appearance  
32 and shall fail to appear at the time fixed for trial, that person's bond shall be forfeited by the  
33 judge presiding at such time and an execution issued thereon by serving the defendant and

1 the defendant's sureties with a rule nisi at least two days before a hearing on the rule nisi.  
 2 In the event that cash or property is accepted in lieu of bond for security for the appearance  
 3 of a defendant at trial, and if such defendant fails to appear at the time and place fixed for  
 4 trial, the cash so deposited shall be on order of the judge declared forfeited to the city, or the  
 5 property so deposited shall have a lien against it for the value forfeited which lien shall be  
 6 enforceable in the same manner and to the same extent as a lien for city property taxes.

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

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

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

#### 17 **SECTION 4.14.**

##### 18 Certiorari.

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

#### 23 **SECTION 4.15.**

##### 24 Rules for court.

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



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

4 **SECTION 5.15.**

5 Other provisions.

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

9 **SECTION 5.16.**

10 Removal of officers.

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

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

16 (1) Following a hearing at which an impartial panel shall render a decision. In the event  
17 an elected officer is sought to be removed by the action of the city council, such officer  
18 shall be entitled to a written notice specifying the ground or grounds for removal and to  
19 a public hearing which shall be held not less than ten days after the service of such  
20 written notice. The city council shall provide by ordinance for the manner in which such  
21 hearings shall be held. Any elected officer sought to be removed from office as provided  
22 in this section shall have the right of appeal from the decision of the city council to the  
23 Superior Court of Madison County. Such appeal shall be governed by the same rules as  
24 govern appeals to the superior court from the probate court; or

25 (2) By an order of the Superior Court of Madison County following a hearing on a  
26 complaint seeking such removal brought by any resident of the City of Comer.

## 1 ARTICLE VI

## 2 FINANCE

3 **SECTION 6.10.**

## 4 Property tax.

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

11 **SECTION 6.11.**

## 12 Millage rate; due dates; payment methods.

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

17 **SECTION 6.12.**

## 18 Occupation and business taxes.

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

23 **SECTION 6.13.**

## 24 Licenses; permits; fees.

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

**SECTION 6.14.**

## Franchises.

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

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

**SECTION 6.15.**

## Service charges.

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

**SECTION 6.16.**

## Special assessments.

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

**SECTION 6.17.**

Construction; other taxes.

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

**SECTION 6.18.**

Collection of delinquent taxes and fees.

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

**SECTION 6.19.**

General obligation bonds.

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

**SECTION 6.20.**

Revenue bonds.

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

**SECTION 6.21.**

## Short-term loans.

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

**SECTION 6.22.**

## Lease-purchase contracts.

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

**SECTION 6.23.**

## Fiscal year.

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

**SECTION 6.24.**

## Budget ordinance.

The city council shall provide an ordinance on the procedures and requirements for the preparation and execution of an annual operating budget, a capital improvement plan, and a capital budget, including requirements as to the scope, content, and form of such budgets and plans.

**SECTION 6.25.**

## Operating budget.

On or before a date fixed by the city council but not later than 30 days prior to the beginning of each fiscal year, the mayor shall submit to the city council a proposed operating budget

1 for the ensuing fiscal year. The budget shall be accompanied by a message from the mayor  
 2 containing a statement of the general fiscal policies of the city, the important features of the  
 3 budget, explanations of major changes recommended for the next fiscal year, a general  
 4 summary of the budget, and other pertinent comments and information. The operating  
 5 budget and the capital budget provided for in Section 6.29 of this charter, the budget  
 6 message, and all supporting documents shall be filed in the office of the city clerk and shall  
 7 be open to public inspection.

8 **SECTION 6.26.**

9 Action by city council on budget.

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

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

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

28 **SECTION 6.27.**

29 Levy of taxes.

30 The city council shall levy by ordinance such taxes as are necessary. The taxes and tax rates  
 31 set by such ordinance shall be such that reasonable estimates of revenues from such levy  
 32 shall at least be sufficient, together with other anticipated revenues, fund balances, and  
 33 applicable reserves, to equal the total amount appropriated for each of the several funds set

1 forth in the annual operating budget for defraying the expenses of the general government  
2 of this city.

3 **SECTION 6.28.**

4 Changes in appropriations.

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

9 **SECTION 6.29.**

10 Capital improvements.

11 (a) On or before the date fixed by the city council, but not later than 30 days prior to the  
12 beginning of each fiscal year, the mayor shall submit to the city council a proposed capital  
13 improvements plan with a recommended capital budget containing the means of financing  
14 the improvements proposed for the ensuing fiscal year. The city council shall have power  
15 to accept, with or without amendments, or reject the proposed plan and budget. The city  
16 council shall not authorize an expenditure for the construction of any building, structure,  
17 work, or improvement unless the appropriations for such project are included in the capital  
18 budget, except to meet a public emergency as provided in Section 2.23 of this charter.

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

26 **SECTION 6.30.**

27 Audits.

28 There shall be an annual independent audit of all city accounts, funds, and financial  
29 transactions by a certified public accountant selected by the city council. The audit shall be  
30 conducted according to generally accepted auditing principles. Any audit of any funds by

1 the state or federal governments may be accepted as satisfying the requirements of this  
2 charter. Copies of annual audit reports shall be available at printing costs to the public.

3 **SECTION 6.31.**

4 Procurement and property management.

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

6 (1) It is in writing;

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

9 (3) It is made or authorized by the city council and such approval is entered in the city  
10 council journal of proceedings pursuant to Section 2.19 of this charter.

11 **SECTION 6.32.**

12 Purchasing.

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

15 **SECTION 6.33.**

16 Sale and lease of property.

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

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

23 (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place  
24 of the city a small parcel or tract of land is cut off or separated by such work from a larger  
25 tract or boundary of land owned by the city, the city council may authorize the mayor to sell  
26 and convey said cut-off or separated parcel or tract of land to an abutting or adjoining  
27 property owner or owners where such sale and conveyance facilitates the highest and best  
28 use of the abutting owner's property. Included in the sales contract shall be a provision for  
29 the rights of way of said street, avenue, alley, or public place. Each abutting property owner  
30 shall be notified of the availability of the property and given the opportunity to purchase said  
31 property under such terms and conditions as set out by ordinance. All deeds and



**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.**

Specific repealer.

An Act incorporating the City of Comer in the County of Madison, approved August 20, 1913 (Ga. L. 1913, p. 728), and as amended, is hereby repealed in its entirety and all amendatory acts thereto are likewise repealed in their entirety.

**SECTION 7.16.**

Effective date.

This Act shall become effective on July 1, 2002.

**SECTION 7.17.**

General repealer.

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