

House Bill 1779

By: Representative Stokes of the 92<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

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

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:



**SECTION 1.13.**

## Examples of power.

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

(b) 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.

(c) 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.

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

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

(f) 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.

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

(h) 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.

(i) 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 (j) 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 (k) 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 residing  
8 in or doing business in the city benefiting from such services; to enforce the payment of  
9 such charges, taxes, or fees; and to provide for the manner and method of collecting such  
10 service charges.

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

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

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

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

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

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

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

35 (s) 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 (t) 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 (u) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose of  
5 public utilities, including but not limited to a system of waterworks, sewers and drains,  
6 sewage disposal, gas works, electric light plants, transportation facilities, public airports,  
7 and any other public utility; and to fix the taxes, charges, rates, fares, fees, assessments,  
8 regulations, and penalties and to provide for the withdrawal of service for refusal or failure  
9 to pay the same; and to authorize the extension of water, sewerage, and electrical  
10 distribution systems, and all necessary appurtenances by which said utilities are distributed,  
11 inside and outside the corporate limits of the city; and to provide utility services to persons,  
12 firms, and corporations inside and outside the corporate limits of the city as provided by  
13 ordinance.
- 14 (v) Nuisance. To define a nuisance and provide for its abatement whether on public or  
15 private property.
- 16 (w) Penalties. To provide penalties for violation of any ordinances adopted pursuant to the  
17 authority of this charter and the laws of the State of Georgia.
- 18 (x) Planning and zoning. To provide comprehensive city planning for development by  
19 zoning; and to provide subdivision regulation and the like as the city council deems  
20 necessary and reasonable to ensure a safe, healthy, and esthetically pleasing community.
- 21 (y) Police and fire protection. To exercise the power of arrest through duly appointed  
22 police officers and to establish, operate, or contract for a police and a fire-fighting agency.
- 23 (z) Public hazards; removal. To provide for the destruction and removal of any building  
24 or other structure which is or may become dangerous or detrimental to the public.
- 25 (aa) Public improvements. To provide for the acquisition, construction, building,  
26 operation, and maintenance of public ways, parks and playgrounds, recreational facilities,  
27 cemeteries, markets and market houses, public buildings, libraries, public housing, airports,  
28 hospitals, terminals, docks, parking facilities, and charitable, cultural, educational,  
29 recreational, conservation, sport, curative, corrective, detentional, penal, and medical  
30 institutions, agencies, and facilities; and to provide any other public improvements, inside  
31 or outside the corporate limits of the city; and to regulate the use of public improvements;  
32 and, for such purposes, property may be acquired by condemnation under Title 22 of the  
33 O.C.G.A. or such other applicable laws as are now or may hereafter be enacted.
- 34 (bb) Public peace. To provide for the prevention and punishment of drunkenness, riots, and  
35 public disturbances.
- 36 (cc) Public transportation. To organize and operate such public transportation systems as  
37 are deemed beneficial.

1 (dd) Public utilities and services. To grant franchises or make contracts for public utilities  
2 and public services and to prescribe the rates, fares, regulations, and standards and  
3 conditions of service applicable to the service to be provided by the franchise grantee or  
4 contractor, insofar as not in conflict with valid regulations of the Georgia Public Service  
5 Commission.

6 (ee) 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 and  
8 all other structures or obstructions upon or adjacent to the rights of way of streets and roads  
9 or within view thereof, within or abutting the corporate limits of the city; and to prescribe  
10 penalties and punishment for violation of such ordinances.

11 (ff) Retirement. To provide and maintain a retirement plan for officers and employees of  
12 the city, if determined feasible by the city council.

13 (gg) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade of,  
14 abandon or close, construct, maintain, repair, clean, prevent erosion of, and light the roads,  
15 alleys, and walkways within the corporate limits of the city; and to negotiate and execute  
16 leases over, through, under, or across any city property or the right of way of any street,  
17 road, alley, and walkway or portion thereof within the corporate limits of the city for  
18 bridges, passageways, or any other purpose or use between buildings on opposite sides of  
19 the street and for other bridges, overpasses, and underpasses for private use at such  
20 locations and to change a rental therefor in such manner as may be provided by ordinance;  
21 and to authorize and control the construction of bridges, overpasses, and underpasses  
22 within the corporate limits of the city; and to grant franchises and rights of way throughout  
23 the streets and roads and over the bridges and viaducts for the use of public utilities and  
24 private use.

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

32 (ii) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish,  
33 and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by  
34 others.

35 (jj) Special areas of public regulation. To regulate or prohibit junk dealers, pawn shops,  
36 the manufacture, sale, or transportation of any intoxicating liquors, and the use of firearms;  
37 to regulate the transportation, storage, and use of combustible, explosive, and inflammable

1 materials, the use of lighting and heating equipment, and any other business or situation  
 2 which may be dangerous to persons or property; to regulate and control the conduct of  
 3 peddlers and itinerant traders, theatrical performances, exhibitions, and shows of any kind,  
 4 by taxation or otherwise; and to license, tax, regulate, or prohibit professional  
 5 fortunetelling, palmistry, adult bookstores, and massage parlors.

6 (kk) Special assessments. To levy and provide for the collection of special assessments to  
 7 cover the costs for any public improvements.

8 (ll) Taxes: ad valorem. To levy and provide for the assessment, valuation, revaluation, and  
 9 collection of taxes on all property subject to taxation.

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

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

16 (oo) Urban redevelopment. To organize and operate an urban redevelopment program.

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

#### 28 **SECTION 1.14.**

##### 29 Exercise of powers.

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





- 1 (5) Represent other private interests in any action or proceeding against this city or any  
2 portion of its government, including, but not limited to, private interests of an immediate  
3 family member; or
- 4 (6) Vote or otherwise participate in the negotiation or in the making of any contract with  
5 any business or entity in which the official or any member of the immediate family of  
6 such individual has a financial interest.
- 7 (c) Disclosure—Any elected official, appointed officer, or employee who shall or whose  
8 immediate family member shall have any private financial interest, directly or indirectly, in  
9 any contract or matter pending before or within any department of the city shall disclose such  
10 private interest to the city council. The mayor or any councilmember who has a private  
11 interest or whose immediate family member has a private interest in the matter pending  
12 before the city council shall disclose such private interest and such disclosure shall be entered  
13 on the records of the city council, and that person shall disqualify himself or herself from  
14 participating in any decision or vote relating thereto. Any elected official, appointed officer,  
15 or employee of any agency or political entity to which this charter applies who shall have or  
16 whose immediately family member shall have any private financial interest, directly or  
17 indirectly, in any contract or matter pending before or within such entity shall disclose such  
18 private interest to the governing body of such agency or entity.
- 19 (d) Use of public property—No elected official, appointed officer, or employee of the city  
20 or any agency or entity to which this charter applies shall use property owned by such  
21 governmental entity for personal benefit, convenience, or profit except in accordance with  
22 policies promulgated by the city council or the governing body of such agency or entity.
- 23 (e) Contracts voidable and rescindable—Any violation of this section which occurs with the  
24 knowledge, express or implied, of a party to a contract or sale shall render such contract or  
25 sale voidable at the option of the city council.
- 26 (f) Ineligibility of elected official—Except where authorized by law, neither the mayor nor  
27 any councilmember shall hold any other elective or compensated appointive office in the city  
28 or otherwise be employed by said government or any agency thereof during the term for  
29 which he or she was elected.
- 30 (g) Political activities of certain officers and employees—No appointed officer and no  
31 employee of the city shall continue in such employment upon qualifying as a candidate for  
32 nomination or election to any public office except as otherwise provided by law. No  
33 employee of the city may campaign for or on behalf of or contribute to any election to any  
34 public office in the city.

1 (h) Penalties for violation—

2 (1) Any city officer or employee who knowingly conceals such financial interest or  
3 knowingly violates any of the requirements of this section shall be guilty of malfeasance  
4 in office or position and shall be deemed to have forfeited his or her office or position.

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

9 (i) Definitions—For the purposes of this article, the term "immediate family," "member  
10 of the immediate family," "immediately family member," and similar terms shall mean and  
11 include any one or more of the following persons: a parent, spouse, child, stepchild,  
12 brother, sister, grandparent, grandchild, parent-in-law, brother-in-law, sister-in-law, aunt,  
13 uncle, niece, or nephew or any person residing with the respective elected official,  
14 appointed officer, or employee of the city or any agency or entity to which this charter  
15 applies.

16 **SECTION 2.15.**

17 Inquiries and investigations.

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

24 **SECTION 2.16.**

25 General power and authority of the city council.

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

28 **SECTION 2.17.**

29 Eminent domain.

30 The city council is hereby empowered to acquire, construct, operate, and maintain public  
31 ways, parks, public grounds, cemeteries, markets, market houses, public buildings, libraries,

1 sewers, drains, sewage treatment, waterworks, electrical systems, gas systems, airports,  
2 hospitals, and charitable, educational, recreational, sport, curative, corrective, detentional,  
3 penal, and medical institutions, agencies, and facilities, and any other public improvements  
4 inside or outside the city, and to regulate the use thereof, and for such purposes, property  
5 may be condemned under procedures established under general law applicable now or as  
6 provided in the future.

7 **SECTION 2.18.**

8 Meetings.

9 The city council shall hold an organizational meeting on the first Monday of each year or,  
10 if that Monday is a holiday, then on the Monday next. The meeting shall be called to order  
11 by the city clerk and the oath of office shall be administered to the newly elected members  
12 as follows:

13 "I do solemnly (swear) (affirm) that I will faithfully perform the duties of (mayor)  
14 (councilmember) of this city and that I will support and defend the charter thereof as well  
15 as the Constitution and laws of the State of Georgia and the United States of America."

16 **SECTION 2.19.**

17 Regular and special meetings.

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

20 (b) Special meetings of the city council may be held on call of the mayor or two members  
21 of the city council. Notice of such special meetings shall be served on all other members  
22 personally, or by telephone personally, at least 24 hours in advance of the meeting. Such  
23 notice to councilmembers shall not be required if the mayor and all councilmembers are  
24 present when the special meeting is called. Such notice of any special meeting may be  
25 waived by a councilmember in writing before or after such a meeting and attendance at the  
26 meeting shall also constitute a waiver of notice on any business transacted in such  
27 councilmember's presence. Only the business stated in the call may be transacted at the  
28 special meeting.

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

**SECTION 2.20.**

## Rules of procedure.

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

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

**SECTION 2.21.**

## Quorum; voting.

Four 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.

**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 "The Council of the City of Porterdale hereby ordains..." 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 2.24.**

Emergencies.

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

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

**SECTION 2.25.**

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 2.22 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

1 as the adopting ordinance; and (2) a copy of each adopted code of technical regulations, as  
 2 well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to  
 3 Section 2.26 of this charter.

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

6 **SECTION 2.26.**

7 Signing; authenticating;  
 8 recording; codification; printing.

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

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

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

28 **SECTION 2.27.**

29 City manager; appointment;  
 30 qualifications; compensation.

31 The city council shall appoint a city manager for an indefinite term and shall fix the city  
 32 manager's compensation. The city manager shall be appointed solely on the basis of his or  
 33 her executive and administrative qualifications.

**SECTION 2.28.**

## Removal of city manager.

(a) The city council may remove the city manager from office in accordance with the following procedures:

(1) The city council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the city manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the city manager;

(2) Within five days after a copy of the resolution is delivered to the city manager, that person may file with the city council a written request for a public hearing. This hearing shall be held within 30 days after the request is filed. The city manager may file with the city council a written reply not later than five days before the hearing; and

(3) If the city manager has not requested a public hearing within the time specified in paragraph (2) of this subsection, the city council may adopt a final resolution for removal, which may be made effective immediately, by an affirmative vote of a majority of all its members. If the city manager has requested a public hearing, the city council may adopt a final resolution for removal, which may be made effective immediately, by an affirmative vote of a majority of all its members at any time after the public hearing.

(b) The city manager shall continue to receive his or her salary until the effective date of a final resolution of removal.

**SECTION 2.29.**

## Acting city manager.

By letter filed with the city clerk, the city manager may designate, subject to approval of the city council, a qualified city administrative officer to exercise the powers and perform the duties of city manager during the his or her temporary absence or physical or mental disability. During such absence or disability, the city council may revoke such designation at any time and appoint another officer of the city to serve until the city manager shall return or his or her disability shall cease.

**SECTION 2.30.**

## Powers and duties of the city manager.

The city manager shall be the chief executive and administrative officer of the city. The city manager shall be responsible to the city council for the administration of all city affairs

1 placed in his or her charge by or under this charter. As the chief executive and administrative  
 2 officer, the city manager shall:

3 (1) Appoint, hire, and, when the city manager deems it necessary for the good of the city,  
 4 suspend or remove all city employees and administrative officers the city manager  
 5 appoints or hires, except as otherwise provided by law or personnel ordinances adopted  
 6 pursuant to this charter. The city manager may authorize any administrative officer who  
 7 is subject to the city manager's direction and supervision to exercise these powers with  
 8 respect to subordinates in that officer's department, office, or agency;

9 (2) Direct and supervise the administration of all departments, offices, and agencies of  
 10 the city, except as otherwise provided by this charter or by law;

11 (3) Attend all city council meetings, except for closed meetings held for the purposes of  
 12 deliberating on the appointment, performance evaluation, or removal of the city manager,  
 13 and have the right to take part in discussion, but he or she shall not have the right to vote;

14 (4) See that all laws, provisions of this charter, and acts of the city council, subject to  
 15 enforcement by the city manager or by officers subject to the city manager's direction and  
 16 supervision, are faithfully executed;

17 (5) Prepare and submit the annual operating budget and capital budget to the city  
 18 council;

19 (6) Submit to the city council and make available to the public a complete report on the  
 20 finances and administrative activities of the city as of the end of each fiscal year;

21 (7) Make a monthly report to the city council concerning the operations of city  
 22 departments, offices, and agencies subject to the city manager's direction and  
 23 supervision;

24 (8) Keep the city council fully advised as to the financial condition and future needs of  
 25 the city, and make such recommendations to the city council concerning the affairs of the  
 26 city; and

27 (9) Perform other such duties as are specified in this charter or as may be required by the  
 28 city council.

## 29 **SECTION 2.31.**

### 30 Council's interference with administration.

31 Except for the purpose of inquiries and investigations under Section 2.15 of this charter, the  
 32 city council shall deal with city officers and employees who are subject to the direction and  
 33 supervision of the city manager solely through the city manager, and neither the mayor nor  
 34 city council nor its members shall give orders to any such officer or employee, either publicly  
 35 or privately. Said mayor and council shall exercise their powers in session duly assembled

1 and no member or group of members thereof shall otherwise attempt to exercise the powers  
2 conferred upon the city council.

3 **SECTION 2.32.**

4 Election of mayor; forfeiture; compensation.

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

12 **SECTION 2.33.**

13 Powers and duties of mayor.

14 The mayor shall:

- 15 (1) Preside at all meetings of the city council;  
16 (2) Be the head of the city for the purpose of service of process and for ceremonial  
17 purposes and be the official spokesperson for the city and the chief advocate of policy;  
18 (3) Have power to administer oaths, issue proclamations, and to take affidavits;  
19 (4) Sign as a matter of course on behalf of the city all written and approved contracts,  
20 ordinances, and other instruments executed by the city which by law are required to be  
21 in writing;  
22 (5) Perform such other duties and exercise such other powers as are otherwise provided  
23 by general state law and this charter;  
24 (6) Call special meetings of the city council as provided for in subsection (b) of Section  
25 2.19 of this charter; and  
26 (7) Perform such other duties as the city council shall by ordinance or resolution  
27 establish.

28 **SECTION 2.34.**

29 Submission of ordinances to the mayor; veto power.

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

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

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

12 (d) The power of veto shall not be ascribed to the mayor in regard to contracts and  
 13 ordinances in which the mayor has a disqualifying financial or personal interest as provided  
 14 in Section 2.14 of this charter.

15 **SECTION 2.35.**

16 Mayor pro tempore; selection; duties.

17 By a majority vote the city council shall elect a councilmember to serve as mayor pro  
 18 tempore at its organizational meeting. The mayor pro tempore shall preside at all meetings  
 19 of the city council and shall assume the duties and powers of the mayor during any disability  
 20 or absence of the mayor. The city council by a majority vote shall elect a new presiding  
 21 officer from among its members for any period in which the mayor pro tempore is disabled,  
 22 absent, or acting as mayor. Any such absence or disability shall be declared by majority vote  
 23 of all councilmembers.

24 **ARTICLE III**

25 **ADMINISTRATIVE AFFAIRS**

26 **SECTION 3.10.**

27 Administrative and service departments.

28 (a) Except as otherwise provided in this charter, the city council by ordinance shall prescribe  
 29 the functions or duties and establish, abolish, or alter all nonelective offices, positions of  
 30 employment, departments, and agencies of the city as necessary for the proper administration  
 31 of the affairs and government of this city.

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

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

6 (d) There shall be a director of each department or agency who shall be its principal officer.  
 7 Each director shall, subject to the direction and supervision of the city manager, be  
 8 responsible for the administration and direction of the affairs and operations of that director's  
 9 department or agency.

10 (e) All directors and department heads under the supervision of the city manager shall be  
 11 nominated by the city manager with the advice and consent of the city council.

12 (f) The city council may remove department heads and directors from office in accordance  
 13 with the following procedures:

14 (1) The city council shall adopt by affirmative vote of a majority of all its members a  
 15 preliminary resolution which must state the reasons for removal and may suspend a  
 16 department head or director from duty for a period not to exceed 45 days. A copy of the  
 17 resolution shall be delivered promptly to the department head or director;

18 (2) Within five days after a copy of the resolution is delivered to the department head or  
 19 director, he or she may file with the city council a written request for a public hearing.  
 20 This hearing shall be held within 30 days after the request is filed. The department head  
 21 or director may file with the council a written reply not later than five days before the  
 22 hearing; and

23 (3) If the department head or director has not requested a public hearing within the time  
 24 specified in paragraph (2) of this subsection, the city council may adopt a final resolution  
 25 for removal, which may be made effective immediately, by an affirmative vote of a  
 26 majority of all its members. If the department head or director requests a public hearing,  
 27 the city council may adopt a final resolution for removal, which may be made effective  
 28 immediately, by an affirmative vote of a majority of all its members at any time after the  
 29 public hearing.

30 The department head or director shall continue to receive his or her salary until the effective  
 31 date of a final resolution of removal.

### 32 **SECTION 3.11.**

#### 33 **Boards, commissions, and authorities.**

34 (a) The city council shall create by ordinance such boards, commissions, and authorities to  
 35 fulfill any investigative, quasi-judicial, or quasi-legislative function the city council deems

1 necessary and shall by ordinance establish the composition, period of existence, duties, and  
2 powers thereof.

3 (b) All members of boards, commissions, committees, and authorities of the city shall be  
4 appointed by the city council for such terms of office and in such manner as shall be  
5 provided by ordinance or resolution, except where other appointing authority, terms of office,  
6 or manner of appointment is prescribed by this charter or by law.

7 (c) The city council by ordinance or resolution may provide for the compensation and  
8 reimbursement for actual and necessary expenses of the members of any board, commission,  
9 committee, or authority.

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

12 (e) Any vacancy on a board, commission, committee, or authority of the city shall be filled  
13 for the unexpired term in the manner prescribed for original appointment or by ordinance or  
14 resolution except as otherwise provided by this charter or by law.

15 (f) No member of a board, commission, committee, or authority shall assume office until he  
16 or she has executed and filed with the clerk of the city an oath obligating himself or herself  
17 to perform faithfully and impartially the duties of the office, such oath to be prescribed by  
18 ordinance and administered by the mayor.

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

21 (h) Except as otherwise provided by this charter or by law, each board, commission,  
22 committee, or authority of the city shall elect one of its members as chairperson and one  
23 member as vice chairperson and may elect as its secretary one of its own members or may  
24 appoint as secretary one of its own members or may appoint as secretary an employee of the  
25 city. Each board, commission, committee, or authority shall pass rules and regulations, not  
26 inconsistent with this charter, ordinances of the city, or law, as it deems appropriate and  
27 necessary for the fulfillment of its duties or the conduct of its affairs. Copies of such rules  
28 and regulations shall be filed with the clerk of the city.

29 **SECTION 3.12.**

30 City attorney.

31 The city council shall appoint a city attorney, together with such assistant city attorneys as  
32 may be authorized, each of whom shall be a member in good standing of the State Bar of  
33 Georgia, and shall provide for the payment of such attorney or attorneys for services  
34 rendered to the city. The city attorney shall serve at the pleasure of the city council and shall  
35 be responsible for representing and defending the city in all litigation in which the city is a

1 party; may be the prosecuting officer in the municipal court; shall attend the meetings of the  
2 city council as directed; shall advise the city council, mayor, and other officers and  
3 employees of the city concerning legal aspects of the city's affairs; and shall perform such  
4 other duties as may be required by virtue of such person's position as city attorney.

5 **SECTION 3.13.**

6 City clerk.

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

11 **SECTION 3.14.**

12 City accountant.

13 The city council shall appoint a city accountant to perform the duties of an accountant.

14 **SECTION 3.15.**

15 Position classification and pay plans.

16 The city manager shall be responsible for the preparation of a position classification and pay  
17 plan which shall be submitted to the city council for approval. Such plan may apply to all  
18 employees of the city and any of its agencies, departments, boards, commissions, or  
19 authorities. When a pay plan has been adopted, the city council shall not increase or decrease  
20 the salary range applicable to any position except by amendment of such pay plan. For  
21 purposes of this section, all elected and appointed city officials are not city employees.

22 **SECTION 3.16.**

23 Personnel policies.

24 The city council shall adopt rules and regulations consistent with this charter concerning:

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

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

- 1 (3) Hours of work, vacation, sick leave, other leaves of absence, overtime pay, and the  
 2 order and manner in which layoffs shall be effected;  
 3 (4) Such dismissal hearings as due process may require; and  
 4 (5) Such other personnel notices as may be necessary to provide for adequate and  
 5 systematic handling of personnel affairs.

6 ARTICLE IV  
 7 JUDICIAL BRANCH  
 8 SECTION 4.10.  
 9 Creation; name.

10 There shall be a court to be known as the Municipal Court of the City of Porterdale.

11 SECTION 4.11.  
 12 Chief judge; associate judge.

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

16 (b) No person shall be qualified or eligible to serve as a judge on the municipal court unless  
 17 that person shall have attained the age of 21 years and shall be a member of the State Bar of  
 18 Georgia and shall possess all qualifications required by law. The chief judge shall be  
 19 nominated and appointed by the city council and shall serve at the pleasure of the council.  
 20 All other judges shall be nominated by the chief judge and appointed by the city council.

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

22 (d) Judges serve at will and may be removed from office at any time by an affirmative vote  
 23 of three members of the city council.

24 (e) Before assuming office, each judge shall take an oath, given by the mayor, that such  
 25 judge will honestly and faithfully discharge the duties of the judge's office to the best of the  
 26 judge's ability and without fear, favor, or partiality. The oath shall be entered upon the  
 27 minutes of the city council journal required in Section 2.21 of this charter.

28 SECTION 4.12.  
 29 Convening.

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

**SECTION 4.13.**

## Jurisdiction; powers.

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

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

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

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

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

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

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

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

**SECTION 4.14.**

## Certiorari.

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

**SECTION 4.15.**

## Rules for court.

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

## ARTICLE V

## ELECTIONS AND REMOVAL

**SECTION 5.10.**

## Applicability of general law.

All primaries and elections 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 5.11.**

## Election of the city council and mayor.

(a) At any election, all persons who are qualified under the Constitution and laws of Georgia to vote for members of the General Assembly of Georgia and who are bona fide residents of said city shall be eligible to qualify as voters in the election.

(b) All primaries and elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code." Except as otherwise provided by this charter, the city council shall, by ordinance, prescribe such rules and regulations it deems

1 appropriate to fulfill any options and duties under Chapter 2 of Title 21 of the O.C.G.A., the  
2 "Georgia Election Code."

3 (c) The mayor and councilmembers who are in office on the effective date of this Act shall  
4 serve until the expiration of the term of office to which they were elected and until their  
5 successors are elected and qualified.

6 (d) For the purpose of electing members of the council, the City of Porterdale shall consist  
7 of one election district with five numbered posts. Each person seeking election shall  
8 designate the post for which he or she seeks election.

9 (e) On the first election under this charter on the Tuesday following the first Monday in  
10 November, 2003, and on that day quadrennially thereafter, there shall be elected a mayor and  
11 two councilmembers for councilmember posts 1 and 2. Then, at the election on the Tuesday  
12 following the first Monday in November, 2005, and on that day quadrennially thereafter,  
13 there shall be elected three councilmembers for councilmember posts 3, 4, and 5. It is the  
14 purpose of this section to provide a rotation system for the office of mayor and  
15 councilmembers. The terms of the offices shall begin on the first day of January immediately  
16 following the election of such member.

17 **SECTION 5.12.**

18 Nonpartisan elections.

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

21 **SECTION 5.13.**

22 Election by plurality vote.

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

24 **SECTION 5.14.**

25 Special elections; vacancies.

26 In the event that the office of mayor or councilmember shall become vacant as provided in  
27 Section 2.12 of this charter, the city council or those remaining shall order a special election  
28 to fill the balance of the unexpired term of such official; provided, however, if such vacancy  
29 occurs within 12 months of the expiration of the term of that office, the city council or those  
30 members remaining shall appoint a successor for the remainder of the term. In all other

1 respects, the special election shall be held and conducted in accordance with Chapter 2 of  
2 Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

3 **SECTION 5.15.**

4 Other provisions.

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

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 Newton 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 Newton County following a hearing on a  
26 complaint seeking such removal brought by any resident of the City of Porterdale.

## 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 by ordinance shall establish a millage rate for the city property tax, a due  
14 date, and the time period within which these taxes must be paid. The city council by  
15 ordinance may provide for the payment of these taxes by installments or in one lump sum,  
16 as well as 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, professions,  
21 or callings for the purpose of such taxation in any way which may be lawful and may compel  
22 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 regulatory fee for such permit as provided by general law. Such fees shall reflect the total  
28 cost to the city of regulating the activity and, if unpaid, shall be collected as provided in  
29 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, cable television 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 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, charge, and collect the costs 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 6.22.**

Lease-purchase contracts.

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

**SECTION 6.23.**

Fiscal year.

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

**SECTION 6.24.**

Preparation of budgets.

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

**SECTION 6.25.**

Submission of operating budget to city council.

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 city manager 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 city manager containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget, and such other comments and information as the city manager may deem pertinent. The operating budget, the capital improvements budget, the

1 budget message, and all supporting documents shall be filed in the office of the city clerk and  
2 shall be open to public inspection.

3 **SECTION 6.26.**

4 Action by city council on budget.

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

10 (b) The city council by ordinance shall adopt the final operating budget for the ensuing fiscal  
11 year not later than December 31 of each year. If the city council fails to adopt the budget by  
12 said date, the amounts appropriated for operation for the then current fiscal year shall be  
13 deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items  
14 prorated accordingly, until such time as the city council adopts a budget for the ensuing fiscal  
15 year. Adoption of the budget shall take the form of an appropriations ordinance setting out  
16 the estimated revenues in detail by sources and making appropriations according to fund and  
17 by organizational unit, purpose, or activity as set out in the budget preparation ordinance  
18 adopted pursuant to Section 6.24 of this charter.

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

23 **SECTION 6.27.**

24 Tax levies.

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

**SECTION 6.28.**

Changes in appropriations.

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

**SECTION 6.29.**

Capital improvements; budget.

(a) On or before the date fixed by the city council, but not later than 30 days prior to the beginning of each fiscal year, the city manager shall submit to the city council a proposed capital improvements budget with any recommendations as to the means of financing the improvements proposed for the ensuing fiscal year. The city council shall have power to accept, with or without amendments, or reject the proposed program and proposed means of financing. The city council shall not authorize an expenditure for the construction of any building, structure, work, or improvement unless the appropriations for such project are included in the capital improvements budget, except to meet a public emergency as provided in Section 2.24 of this charter.

(b) The city council shall adopt by ordinance the final capital improvements budget for the ensuing fiscal year not later than December 31 of each year. No appropriation provided for in a prior capital improvements budget shall lapse until the purpose for which the appropriations were made shall have been accomplished or abandoned; provided, however, the city manager may submit amendments to the capital improvements budget at any time during the fiscal year, accompanied by any recommendations. Any such amendments to the capital improvements budget shall become effective only upon adoption by ordinance.

**SECTION 6.30.**

Independent audit.

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

**SECTION 6.31.**

Contracting procedures.

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

(1) It is in writing;

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

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

**SECTION 6.32.**

Centralized purchasing.

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

**SECTION 6.33.**

Sale of city property.

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

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

(c) Whenever in opening, extending, or widening any street, avenue, alley, or public place of the city a small parcel or tract of land is cut off or separated by such work from a larger tract or boundary of land owned by the city, the city council may authorize the city manager to sell and convey said cut-off or separated parcel or tract of land to an abutting or adjoining property owner or owners where such sale and conveyance facilitates the highest and best use of the abutting owner's property. Included in the sales contract shall be a provision for the rights of way of said street, avenue, alley, or public place. Each abutting property owner shall be notified of the availability of the property and given the opportunity to purchase said property under such terms and conditions as set out by ordinance. All deeds and conveyances heretofore and hereafter so executed and delivered shall convey all title and interest the city has in such property, notwithstanding the fact that no public sale after advertisement was or is hereafter made.

## 1 ARTICLE VII

## 2 GENERAL PROVISIONS

3 **SECTION 7.10.**

4 Bonds for officials.

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

8 **SECTION 7.11.**

9 Prior ordinances.

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

13 **SECTION 7.12.**

14 Existing personnel and officers.

15 Except as specifically provided otherwise by this charter, all personnel and officers of this  
16 city and their rights, privileges, and powers shall continue beyond the time this charter takes  
17 effect for a period of 90 days before or during which time the existing city council shall pass  
18 a transition ordinance detailing the changes in personnel and appointed officers required or  
19 desired and arranging such titles, rights, privileges, and powers as may be required or desired  
20 to allow a reasonable transition.

21 **SECTION 7.13.**

22 Pending matters.

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

**SECTION 7.14.**

Construction.

(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 or impair other parts of this charter unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional, it being the legislative intent in enacting this charter that each article, section, subsection, paragraph, sentence, or part thereof be enacted separately and independent of each other.

**SECTION 7.16.**

Specific repealer.

An Act incorporating the City of Porterdale in the County of Newton, approved March 13, 1978 (Ga. L. 1978, p. 3448), is hereby repealed in its entirety and all mandatory Acts thereto are likewise repealed in their entirety.

**SECTION 7.17.**

Effective date.

This Act shall become effective on July 1, 2002.

**SECTION 7.18.**

General repealer.

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