

House Bill 921

By: Representative Holland of the 157th

A BILL TO BE ENTITLED
AN ACT

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

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.13.

Specific powers.

(a) 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 the same if in violation of any ordinance or lawful order; to provide for the disposition by sale, gift, or humane destruction of animals and fowl when not redeemed as provided by ordinance; and to provide punishment for violation of ordinances enacted hereunder.

(b) 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 or for municipalities by the laws of the State of Georgia; and to provide for the payment of expenses of the city.

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

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

(e) 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 provided by the O.C.G.A. as the same shall exist from time to time.

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

(g) 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.

(h) Environmental protection. To protect and preserve the natural resources, environment, and vital areas of the city 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 (i) Fire regulations. To fix and establish fire limits and from time to time to extend, enlarge,
2 or restrict the same; to prescribe fire safety regulations not inconsistent with general law,
3 relating to fire prevention and detection and to fire fighting; and to prescribe penalties and
4 punishment for violations thereof.
- 5 (j) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection and
6 disposal, and other sanitary service charge, tax, or fee for such services as may be necessary
7 in the operation of the city from all individuals, firms, and corporations residing in or doing
8 business therein benefiting from such services or to whom such services are available; to
9 enforce the payment of such charges, taxes, or fees; and to provide for the manner and
10 method of collecting such service charges.
- 11 (k) 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 standards.
- 14 (l) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for any
15 purpose related to powers and duties of the city and the general welfare of its citizens, on
16 such terms and conditions as the donor or grantor may impose.
- 17 (m) Health and sanitation. To prescribe standards of health and sanitation and to provide
18 for the enforcement of such standards.
- 19 (n) Jail sentences. To provide that persons given jail sentences in the city's court may work
20 out such sentences in any public works or on the streets, roads, drains, and other public
21 property in the city; to provide for commitment of such persons to any jail; or to provide for
22 commitment of such persons to any county work camp or county jail by agreement with the
23 appropriate county officials.
- 24 (o) Motor vehicles. To regulate the operation of motor vehicles and exercise control over
25 all traffic, including parking upon or across the streets, roads, alleys, and walkways of the
26 city.
- 27 (p) Municipal agencies and delegation of power. To create, alter, or abolish departments,
28 boards, offices, commissions, and agencies of the city, and to confer upon such agencies the
29 necessary and appropriate authority for carrying out all the powers conferred upon or
30 delegated to the same.
- 31 (q) Municipal debts. To appropriate and borrow money for the payment of debts of the city
32 and to issue bonds for the purpose of raising revenue to carry out any project, program, or
33 venture authorized by this charter of the laws of the State of Georgia.
- 34 (r) Municipal property ownership. To acquire, dispose of, lease, option, and hold in trust
35 or otherwise, any real, personal, or mixed property, in fee simple or lesser interest, inside or
36 outside the property limits of the city.

- 1 (s) 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; and
3 to prescribe penalties and punishment for violations thereof.
- 4 (t) 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, cable television, and other
7 telecommunications, transportation facilities, public airports, and any other public utility; and
8 to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties, and to
9 provide for the withdrawal of service for refusal or failure to pay the same.
- 10 (u) Nuisance. To define a nuisance and provide for its abatement whether on public or
11 private property.
- 12 (v) Penalties. To provide penalties for violation of any ordinances adopted pursuant to the
13 authority of this charter and the laws of the State of Georgia.
- 14 (w) Planning and zoning. To provide comprehensive city planning for development by
15 zoning; and to provide subdivision regulation and the like as the city council deems
16 necessary and reasonable to ensure a safe, healthy, and aesthetically pleasing community.
- 17 (x) Police and fire protection. To exercise the power of arrest through duly appointed police
18 officers and to establish, operate, or contract for a police and a fire fighting agency.
- 19 (y) Public hazards: removal. To provide for the destruction and removal of any building
20 or other structure which is or may become dangerous or detrimental to the public.
- 21 (z) Public improvements. To provide for the acquisition, construction, building, operation,
22 and maintenance of public ways, parks and playgrounds, recreational facilities, cemeteries,
23 markets and market houses, public buildings, libraries, public housing, airports, hospitals,
24 terminals, docks, parking facilities, or charitable, cultural, educational, recreational,
25 conservation, sport, curative, corrective, detentional, penal, and medical institutions,
26 agencies, and facilities; to provide any other public improvements, inside or outside the
27 corporate limits of the city; to regulate the use of public improvements; and for such
28 purposes, property may be acquired by condemnation under procedures provided by the
29 O.C.G.A. as the same shall exist from time to time.
- 30 (aa) Public peace. To provide for the prevention and punishment of drunkenness, riots, and
31 public disturbances.
- 32 (bb) Public transportation. To organize and operate such public transportation systems as
33 are deemed beneficial.
- 34 (cc) Public utilities and services. To grant franchises or make contracts for or impose taxes
35 on public utilities and public service companies; and to prescribe the rates, fares, regulations
36 and standards, and conditions of service applicable to the service to be provided by the

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

- 1 (kk) Taxes: ad valorem. To levy and provide for the assessment, valuation, revaluation, and
 2 collection of taxes on all property subject to taxation.
- 3 (ll) Taxes: other. To levy and collect such other taxes as may be allowed now or in the
 4 future by law.
- 5 (mm) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the
 6 number of such vehicles; to require the operators thereof to be licensed; to require public
 7 liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to
 8 regulate the parking of such vehicles.
- 9 (nn) Urban redevelopment. To organize and operate an urban redevelopment program.
- 10 (oo) Other powers. To exercise and enjoy all other powers, functions, rights, privileges, and
 11 immunities necessary or desirable to promote or protect the safety, health, peace, security,
 12 good order, comfort, convenience, or general welfare of the city and its inhabitants; and to
 13 exercise all implied powers necessary or desirable to carry into execution all powers granted
 14 in this charter as fully and completely as if such powers were fully stated herein; and to
 15 exercise all powers now or in the future authorized to be exercised by other municipal
 16 governments under other laws of the State of Georgia; and no listing of particular powers in
 17 this charter shall be held to be exclusive of others, nor restrictive of general words and
 18 phrases granting powers, but shall be held to be in addition to such powers unless expressly
 19 prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

20 **SECTION 1.14.**

21 Exercise of powers.

22 All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or
 23 employees shall be carried into execution as provided by this charter. If this charter makes
 24 no provisions, such shall be carried into execution as provided by ordinance or as provided
 25 by pertinent laws of the State of Georgia.

26 **ARTICLE II**

27 **GOVERNMENT STRUCTURE**

28 **SECTION 2.10.**

29 City council creation; number; election.

30 The legislative authority of the government of this city, except as otherwise specifically
 31 provided in this charter, shall be vested in a city council to be composed of a mayor and five
 32 councilmembers. The city council established shall in all respects be a successor to and

1 continuation of the governing authority under prior law. The mayor and councilmembers
2 shall be elected in the manner provided by general law and this charter.

3 **SECTION 2.11.**

4 City council terms and qualifications for office.

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

11 **SECTION 2.12.**

12 Vacancy; filling of vacancies.

13 (a) Vacancies — The office of mayor or councilmember shall become vacant upon the
14 occurrence of any event specified by the Constitution of the State of Georgia, Title 45 of the
15 O.C.G.A., or such other applicable laws as are or may hereafter be enacted.

16 (b) Filling of vacancies — A vacancy in the office of mayor or councilmember shall be
17 filled for the remainder of the unexpired terms, if any, by appointment by the remaining
18 councilmembers if less than six months remain in the unexpired term, otherwise by an
19 election, as provided for in Section 5.14 of this charter and in accordance with Titles 21 and
20 45 of the O.C.G.A., or other such laws as are or may hereafter be enacted.

21 **SECTION 2.13.**

22 Compensation and expenses.

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

25 **SECTION 2.14.**

26 Holding other office; voting when financially interested.

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

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

3 **SECTION 2.15.**

4 Inquiries and investigations.

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

11 **SECTION 2.16.**

12 General power and authority of the city council.

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

15 **SECTION 2.17.**

16 Eminent domain.

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

25 **SECTION 2.18.**

26 Organizational meetings

27 The city council shall hold an organizational meeting at the first regularly scheduled meeting
28 in January following the regular election, as provided in Section 5.11 of this charter. The

1 meeting shall be called to order by the city clerk, and the oath of office shall be administered
2 to the newly elected members as follows:

3 "I, _____, do solemnly swear or affirm that I will properly perform the duties of
4 the office of _____ in and for the City of Ashburn, to the best of my knowledge,
5 skill, and ability; that I am not the holder of any unaccounted for public money due to the
6 State of Georgia or any political subdivision or authority thereof; that I am not the holder
7 of any office of trust under the government of the United States, any other state, or any
8 foreign state, which I am by the laws of the State of Georgia prohibited from holding;
9 that I am qualified to hold the office which I am about to enter according to the
10 Constitution and laws of Georgia; that I will support the Constitution of the United States
11 and the State of Georgia; that I have been a resident of the ward from which elected and
12 the City of Ashburn for the time required by the Constitution and laws of the State of
13 Georgia and the charter of the City of Ashburn, so help me God."

14

SECTION 2.19.

15

Regular and special meetings.

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

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

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

SECTION 2.22.

Ordinance form; procedures.

(a) Every proposed ordinance should be introduced in writing and in the form required for final adoption. No ordinance shall contain a subject which is not expressed in its title. The enacting clause shall be "It is hereby ordained by the governing authority of the City of Ashburn," 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. Except for emergency ordinances as provided for in Section 2.24 of this charter, all ordinances shall have two separate readings; provided, however, the council may dispense with the second reading with the unanimous consent of the members present. 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

1 repealed 30 days following the date upon which it was adopted, but this shall not prevent
 2 reenactment of the ordinance in the manner specified in this section if the emergency still
 3 exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance
 4 in the same manner specified in this section for adoption of emergency ordinances.

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

9 **SECTION 2.25.**

10 Codes of technical regulations.

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

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

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

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

22 **SECTION 2.26.**

23 Signing; authenticating; recording; codification; printing.

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

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

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

10 **SECTION 2.27.**

11 Election of mayor; forfeiture; compensation.

12 The mayor shall be elected and serve for a term of two years and until a successor is elected
13 and qualified. The mayor shall be a qualified elector of this city and shall have been a
14 resident of the city for 12 months preceding the election. The mayor shall continue to reside
15 in this city during the period of service. The mayor shall forfeit the office on the same
16 grounds and under the same procedure as for councilmembers. The compensation of the
17 mayor shall be established in the same manner as for councilmembers.

18 **SECTION 2.28.**

19 Powers and duties of mayor.

20 The mayor shall:

- 21 (1) Preside at all meetings of the city council;
- 22 (2) Be the head of the city for the purpose of service of process and for ceremonial
23 purposes; and be the official spokesperson for the city and the chief advocate of policy;
- 24 (3) Have power to administer oaths and to take affidavits;
- 25 (4) Sign, as a matter of course on behalf of the city, all written and approved contracts,
26 ordinances, and other instruments executed by the city which by law are required to be
27 in writing; and
- 28 (5) Veto any ordinance, resolution, or motion as provided in subsection (b) of Section
29 2.21 of this charter.

SECTION 2.29.

Mayor pro tempore; selection; duties.

The mayor shall select a councilmember to serve as mayor pro tempore. In the mayor's absence, the mayor pro tempore shall preside at meetings of the city council and shall assume the duties and powers of mayor upon the mayor's physical or mental disability, provided that the mayor pro tempore shall vote as a member of council at all times when serving as herein provided. The mayor's appointment of mayor pro tempore shall be made at the organizational meeting held pursuant to Section 2.18 of this charter.

SECTION 2.30.

City manager; appointment; qualifications; compensation.

The mayor and city council shall appoint a city manager for an indefinite term and shall fix the city manager's compensation; provided, however, no city manager shall be appointed by less than the affirmative vote of four members of the city council or by the mayor and three members of the council. The city manager shall be appointed solely on the basis of executive and administrative qualifications.

SECTION 2.31.

Removal of city manager.

The city manager is employed at will and may be summarily removed from office at any time by the mayor and city council; provided, however, the city manager may only be removed by a majority vote of four members of the city council or by the mayor and three members of the city council.

SECTION 2.32.

Acting city manager.

By letter filed with the city clerk, the city manager may designate, subject to approval of the mayor and city council, a qualified city administrative officer to exercise the powers and perform the duties of manager during the city manager's temporary absence or physical or mental disability. During such absence or disability the mayor and 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 until the city manager's disability shall cease.

SECTION 2.33.

Powers and duties of 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 placed in the city manager's charge by or under this charter. As the chief executive and administrative officer, the city manager shall:

(1) Recommend for the approval of the city council the hiring of all employees holding the position of department head for the various departments so designated by the city council;

(2) Appoint, suspend, or remove all city employees and administrative officers, other than department heads, except as otherwise provided by this charter. The city manager may authorize any administrative officer who is subject to the city manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;

(3) Suspend or otherwise discipline all employees holding the position of department head; provided, however, any disciplinary action of a department head may be appealed to the mayor and city council. The city manager's action may be vacated, upheld, or otherwise amended by a majority vote of four members of the city council or by the mayor and three members of the city council;

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

(5) Attend all city council meetings except for closed meetings held for the purposes of deliberating on the appointment, discipline, or removal of the city manager and have the right to take part in discussion but not vote;

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

(7) Prepare and submit the annual operating budget and capital budget to the city council;

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

(9) Make such other reports as the city council may require concerning the operations of city departments, offices, and agencies subject to the city manager's direction and supervision;

1 (10) Keep the city council fully advised as to the financial condition and future needs of
2 the city, and make such recommendations to the city council concerning the affairs of the
3 city as the city manager deems desirable; and

4 (11) Perform other such duties as are specified in this charter or as may be required by
5 the city council.

6 **SECTION 2.34.**

7 Department heads; appointment; qualifications; compensation.

8 The mayor and city council shall appoint department heads for indefinite terms and shall fix
9 the department heads' compensation; provided, however, no department head shall be
10 appointed by less than the affirmative vote of four members of the city council or by the
11 mayor and three members of the city council. Department heads shall be appointed solely
12 on the basis of executive and administrative qualifications.

13 **SECTION 2.35.**

14 Removal of department heads.

15 Department heads are employed at will and may be summarily removed from office at any
16 time by the mayor and city council; provided, however, department heads may only be
17 removed by a majority vote of four members of the city council or by the mayor and three
18 members of the city council.

19 **SECTION 2.36.**

20 Council interference with administration.

21 Except for the purpose of inquiries and investigations under Section 2.15 of this charter, the
22 city council or its members shall deal with city officers and employees who are subject to the
23 direction and supervision of the city manager solely through the city manager, and neither
24 the city council nor its members shall give orders to any such officer or employee, either
25 publicly or privately.

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

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

8 (f) All board members serve at will and may be removed at any time by a vote of four
9 members of the city council unless otherwise provided by law.

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

18 **SECTION 3.12.**

19 City attorney.

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

28 **SECTION 3.13.**

29 City clerk.

30 The mayor and city council shall appoint a city clerk who shall not be a councilmember. The
31 city clerk shall be appointed by a majority of four members of the city council or by the
32 mayor and three members of the city council. The city clerk shall be custodian of the official

1 city seal and city records; maintain city council records required by this charter; and perform
2 such other duties as may be required by the mayor and city council.

3 **SECTION 3.14.**

4 Personnel policies.

5 All employees shall serve at will and may be removed from office at any time; provided,
6 however, the city council may adopt personnel policies providing for the management of city
7 employees, including appeals from any disciplinary action to the city council.

8 **ARTICLE IV**

9 **JUDICIAL BRANCH**

10 **SECTION 4.10.**

11 Municipal court; creation.

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

13 **SECTION 4.11.**

14 Chief judge; associate judge.

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

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

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 the city council
23 unless otherwise provided by ordinance.

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

SECTION 4.12.

Convening.

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

SECTION 4.13.

Jurisdiction; powers.

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

(b) The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$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 180 days, or other 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 recognizance 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 that person's appearance and shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge presiding at such time, and an execution issued thereon by serving the defendant and the defendant's sureties with a rule nisi, at least two days before a hearing on the rule nisi. In the event that cash or property is accepted in lieu of bond for security for the appearance of a defendant at trial, and if such defendant fails to appear at the time and place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited to the city, or the property so deposited shall have a lien against it for the value forfeited which lien shall be enforceable in the same manner and to the same extent as a lien for city property taxes.

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

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

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

5 **SECTION 4.14.**

6 Certiorari.

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

11 **SECTION 4.15.**

12 Rules for court.

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

20 **ARTICLE V**

21 **ELECTIONS AND REMOVAL**

22 **SECTION 5.10.**

23 Applicability of general law.

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

SECTION 5.11.

Regular elections; time for holding.

Beginning in 2001 and every two years thereafter on the Tuesday following the first Monday in November, there shall be an election for city council Posts 3, 4, and 5. Beginning in 2002 and every two years thereafter on the Tuesday following the first Monday in November, there shall be an election for the mayor and city council for Posts 1 and 2. The terms of office shall begin at the organizational meeting as provided for in Section 2.18 of this charter.

SECTION 5.12.

Nonpartisan elections.

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

SECTION 5.13.

Election by majority.

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

SECTION 5.14.

Special elections; vacancies.

In the event that the office of mayor or councilmember shall become vacant as provided in Section 2.12 of this charter, the city council or those remaining shall appoint a successor for the remainder of the term, provided that less than six months remain in the unexpired term. In all other respects, the special election shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

SECTION 5.15.

Other provisions.

Except as otherwise provided by this charter, the city council shall, by ordinance, prescribe such rules and regulations it deems appropriate to fulfill any options and duties under

1 Chapter 2 of title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter
2 amended.

3 **SECTION 5.16.**

4 Removal of officers.

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

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

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

19 (2) By an order of the Superior Court of Turner County following a hearing on a
20 complaint seeking such removal brought by any resident of the city of Ashburn.

21 **ARTICLE VI**

22 **FINANCE**

23 **SECTION 6.10.**

24 **Property tax.**

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

SECTION 6.11.

Millage rate; due dates; payment methods.

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

SECTION 6.12.

Occupation and business taxes.

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

SECTION 6.13.

Regulatory fees; permits.

The city council, by ordinance, shall have the power to require businesses or practitioners doing business within this city to obtain a permit for such activity from the city and pay a reasonable regulatory fee for such permit as provided by general law. Such fees shall reflect the total cost to the city or regulating the activity and, if unpaid, shall be collected as 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 clerk.

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

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

8 **SECTION 6.15.**

9 Service charges.

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

15 **SECTION 6.16.**

16 Special assessments.

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

22 **SECTION 6.17.**

23 Construction; other taxes and fees.

24 The city shall be empowered to levy any other tax or fee allowed now or hereafter by law,
25 and the specific mention of any right, power, or authority in this article shall not be construed
26 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, 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 the 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 or 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 said 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 multi-year 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 the 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 a 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.

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 pertinent comments and information. The operating budget and the capital budget hereinafter provided for, the budget message, and

1 all supporting documents shall be filed in the office of the city clerk and shall be open to
2 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, and the total appropriations from any fund shall not exceed the
9 estimated fund balance, reserves, and revenues.

10 (b) The city council, by resolution, shall adopt the final operating budget for the ensuing
11 fiscal year not later than the first day of the ensuing fiscal year. If the city council fails to
12 adopt the budget by this date, the amounts appropriated for operation for the current fiscal
13 year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all
14 items prorated accordingly until such time as the city council adopts a budget for the ensuing
15 fiscal year. Adoption of the budget shall take the form of an appropriations ordinance setting
16 out the estimated revenues in detail by sources and making appropriations according to fund
17 and 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.

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2
3 The city council, by ordinance, may make changes in the appropriations contained in the
4 current operating budget at any regular meeting or special or emergency meeting called for
5 such purpose, but any additional appropriations may be made only from an existing
6 unexpended surplus.

SECTION 6.29.

Independent audit.

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

SECTION 6.30.

Contracting procedures.

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16 The city council, by ordinance, shall prescribe procedures for the adoption of contracts by
17 the mayor and city council.

SECTION 6.31.

Centralized purchasing.

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

SECTION 6.32.

Sale and lease of city property.

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23
24 (a) The city council may sell and convey or lease any real or personal property owned or
25 held by the city for governmental or other purposes as now or hereafter provided by law.
26 (b) The city council may quitclaim any rights it may have in property not needed for public
27 purposes upon report by the mayor and adoption of a resolution, both finding that the

1 property is not needed for public or other purposes and that the interest of the city has no
2 readily ascertainable monetary value.

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

15 **ARTICLE VII**
16 **GENERAL PROVISIONS**

17 **SECTION 7.10.**
18 **Bonds for officials.**

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

22 **SECTION 7.11.**
23 **Prior ordinances.**

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

27 **SECTION 7.12.**
28 **Existing personnel and officers.**

29 Except as specifically provided otherwise by this charter, all personnel and officers of the
30 city and their rights, privileges, and powers shall continue beyond the time this charter takes

1 effect for a period of 180 days before or during which the existing city council shall pass a
2 transition ordinance detailing the changes in personnel and appointed officers required or
3 desired and arranging such titles, rights, privileges, and powers as may be required or desired
4 to allow a reasonable transition.

5 **SECTION 7.13.**

6 Pending matters.

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

11 **SECTION 7.14**

12 Construction.

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

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

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

18 **SECTION 7.15.**

19 Severability.

20 If any article, section, subsection, paragraph, sentence, or part thereof of this charter shall be
21 held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect
22 nor impair other parts of this charter unless it clearly appears that such other parts are wholly
23 and necessarily dependent upon the part held to be invalid or unconstitutional, it being the
24 legislative intent in enacting this charter that each article, section, subsection, paragraph,
25 sentence, or part thereof be enacted separately and independent of each other.

