

House Bill 734 (AS PASSED HOUSE AND SENATE)

By: Representative Douglas of the 73rd

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the Town of Newborn; to provide for incorporation, boundaries,
2 and powers of the town; to provide for a governing authority of such town and the powers,
3 duties, authority, election, terms, vacancies, compensation, expenses, qualifications,
4 prohibitions, conflicts of interest, and suspension and removal from office relative to
5 members of such governing authority; to provide for inquiries and investigations; to provide
6 for oaths, organization, meetings, quorum, voting, rules, and procedures; to provide for
7 ordinances and codes; to provide for a mayor, mayor pro tempore, and town council and
8 certain duties, powers, and other matters relative thereto; to provide for administrative affairs
9 and responsibilities; to provide for boards, commissions, and authorities; to provide for a
10 town attorney, a town clerk, a town treasurer, a police chief, a fire chief, 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 taxation, licenses, and fees; to provide for
15 franchises, service charges, and assessments; to provide for bonded and other indebtedness;
16 to provide for auditing, accounting, budgeting, and appropriations; to provide for town
17 contracts and purchasing; to provide for the conveyance of property and interests therein; to
18 provide for bonds for officials; to provide for prior ordinances and rules and pending matters;
19 to provide for penalties; to provide for definitions and construction; to provide for other
20 matters relative to the foregoing; to provide for severability; to repeal specific Acts; to
21 provide for an effective date; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

1 (2) Alcoholic beverages. The keeping for sale, selling, or offering for sale of any
2 spirituous, vinous, malt, or fermented wines or liquors within the corporate limits of said
3 town shall be regulated by the Town of Newborn as provided by law. The mayor and
4 council of Newborn shall have power or authority to license the sale thereof, consistent
5 with the laws of the State of Georgia, and it shall be their duty to enforce this by the
6 enactment of necessary ordinances with suitable penalties for violation;

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

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

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

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

23 (7) Cemeteries. The mayor and council shall have jurisdiction over all cemeteries
24 belonging to or located in said town, and may provide by ordinance for a public
25 cemetery. They may appoint such employees to superintend the care thereof as they
26 deem proper. They may enact ordinances to prevent trespass therein and to prevent any
27 person from defacing any work therein. They may regulate the charges for grave digging,
28 hearse fees, and any and every thing pertaining to the care and operation of such
29 cemeteries;

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

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

36 (10) Emergencies. To establish procedures for determining and proclaiming that an
37 emergency situation exists within or outside the town and to make and carry out all

1 reasonable provisions deemed necessary to deal with or meet such an emergency for the
2 protection, safety, health, or well-being of the citizens of the town;

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

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

12 (13) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection
13 and disposal and other sanitary service charge, tax, or fee for such services as may be
14 necessary in the operation of the town from all individuals, firms, and corporations
15 residing in said town or doing business therein and benefitting from such services; to
16 enforce the payment of such charges, taxes, or fees; and to provide for the manner and
17 method of collecting such service charges;

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

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

25 (16) Health and sanitation. To prescribe standards of health and sanitation and to
26 provide for the enforcement of such standards;

27 (17) Jail sentences. To provide that persons given jail sentences in the municipal court
28 may work out such sentences in any public works or on the streets, roads, drains, and
29 squares in the town; to provide for commitment of such persons to any jail; or to provide
30 for commitment of such persons to any county work camp or county jail by agreement
31 with the appropriate county officials;

32 (18) Motor vehicles. To regulate the operation of motor vehicles and exercise control
33 over all traffic, including parking upon or across the streets, roads, alleys, and walkways
34 of the town;

35 (19) Municipal agencies and delegation of power. To create, alter, or abolish
36 departments, boards, offices, commissions, and agencies of the town; and to confer upon

1 such agencies the necessary and appropriate authority for carrying out all the powers
2 conferred upon or delegated to the same;

3 (20) Municipal debts. To appropriate and borrow money for the payment of debts of the
4 town and to issue bonds for the purpose of raising revenue to carry out any project,
5 program, or venture authorized by this charter or the laws of the State of Georgia;

6 (21) Municipal property ownership. To acquire, dispose of, and hold in trust or
7 otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or
8 outside the property limits of the town;

9 (22) Municipal property protection. To provide for the preservation and protection of
10 property and equipment of the town and the administration and use of same by the public;
11 and to prescribe penalties and punishment for violations thereof;

12 (23) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose
13 of public utilities, including, but not limited to, a system of waterworks, sewers and
14 drains, sewage disposal, gas works, electric light plants, transportation facilities, public
15 airports, and any other public utility; to fix the taxes, charges, rates, fares, fees,
16 assessments, regulations, and penalties; to provide for the withdrawal of service for
17 refusal or failure to pay the same; to authorize the extension of water, sewerage, and
18 electrical distribution systems, and all necessary appurtenances by which said utilities are
19 distributed, inside and outside the corporate limits of the town; and to provide utility
20 services to persons, firms, and corporations inside and outside the corporate limits of the
21 town as provided by ordinance;

22 (24) Nuisances. To define a nuisance and provide for its abatement whether on public
23 or private property;

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

26 (26) Planning and zoning. To provide comprehensive town planning for development
27 by zoning; and to provide subdivision regulation and the like as the mayor and council
28 deem necessary and reasonable to ensure a safe, healthy, and esthetically pleasing
29 community;

30 (27) Police and fire protection. To exercise the power of arrest through duly appointed
31 police officers; and to establish, operate, or contract for a police and a fire-fighting
32 agency;

33 (28) Public hazards; removal. To provide for the destruction and removal of any
34 building or other structure which is or may become dangerous or detrimental to the
35 public;

36 (29) Public improvements. To provide for the acquisition, construction, building,
37 operation, and maintenance of public ways, parks and playgrounds, recreational facilities,

1 cemeteries, markets and market houses, public buildings, libraries, public housing,
2 airports, hospitals, terminals, docks, parking facilities, and charitable, cultural,
3 educational, recreational, conservation, sport, curative, correctional, detentional, penal,
4 and medical institutions, agencies, and facilities; to provide any other public
5 improvements, inside or outside the corporate limits of the town; to regulate the use of
6 public improvements; and, for such purposes, property may be acquired by condemnation
7 under Title 22 of the O.C.G.A. or such other applicable laws as are or may hereafter be
8 enacted;

9 (30) Public peace. To provide for the prevention and punishment of intoxication, riots,
10 and public disturbances;

11 (31) Public transportation. To organize and operate such public transportation systems
12 as are deemed beneficial;

13 (32) Public utilities and services. To grant franchises or make contracts for public
14 utilities and public services and to prescribe the rates, fares, regulations, standards, and
15 conditions of service applicable to the service to be provided by the franchise grantee or
16 contractor, insofar as not in conflict with valid regulations of the Public Service
17 Commission;

18 (33) Regulation of roadside areas. To prohibit or regulate and control the erection,
19 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any
20 and all other structures or obstructions upon or adjacent to the rights of way of streets
21 and roads or within view thereof, within or abutting the corporate limits of the town; and
22 to prescribe penalties and punishment for violation of such ordinances;

23 (34) Retirement. To provide and maintain a retirement plan for officers and employees
24 of the town;

25 (35) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade
26 of, abandon or close, construct, pave, maintain, repair, clean, prevent erosion of, and light
27 the roads, alleys, and walkways within the corporate limits of the town; to negotiate and
28 execute leases over, through, under, or across any town property or the right of way of
29 any street, road, alley, and walkway or portion thereof within the corporate limits of the
30 town for bridges, passageways, or any other purpose or use between buildings on
31 opposite sides of the street and for other bridges, overpasses, and underpasses for private
32 use at such location and to charge a rental therefor in such manner as may be provided
33 by ordinance; to authorize and control the construction of bridges, overpasses, and
34 underpasses within the corporate limits of the town; to grant franchises and rights of way
35 throughout the streets and roads and over the bridges and viaducts for the use of public
36 utilities and for private use; and to require real estate owners to repair and maintain in a

1 safe condition the sidewalks adjoining their lots or lands and to impose penalties for
2 failure to do so;

3 (36) Sewer fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring,
4 constructing, equipping, operating, maintaining, and extending of a sewage disposal plant
5 and sewerage system and to levy on those to whom sewers and sewerage systems are
6 made available a sewer service fee, charge, or sewer tax for the availability or use of the
7 sewers; to provide for the manner and method of collecting such service charges and for
8 enforcing payment of the same; and to charge, impose, and collect a sewer connection fee
9 or fees to those connected with the system;

10 (37) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish,
11 and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by
12 others and to provide for the separate collection of glass, tin, aluminum, cardboard, paper,
13 and other recyclable materials;

14 (38) Special areas of public regulation. To regulate or prohibit junk dealers, pawn shops,
15 the manufacture, sale, or transportation of intoxicating liquors and drugs, and the use of
16 firearms; to regulate the transportation, storage, and use of combustible, explosive, and
17 flammable materials, the use of lighting and heating equipment, and any other business
18 or situation which may be dangerous to persons or property; to regulate and control the
19 conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows
20 of any kind, by taxation or otherwise; and to license, tax, regulate, or prohibit
21 professional fortunetelling, palmistry, adult bookstores, and massage parlors;

22 (39) Special assessments. To levy and provide for the collection of special assessments
23 to cover the costs for any public improvements;

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

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

28 (42) Trees. To adopt and enforce ordinances for the protection and preservation of trees
29 on the streets, public places, cemeteries, and parks in said town and to prevent the cutting,
30 impairing, or mutilations thereof by telephone, telegraph, or electric light linemen or
31 employees or any other person unless the same is done under and with the express and
32 formal consent of the mayor and council or some officer appointed by them to direct the
33 same and then only when absolutely necessary for the public service or safety;

34 (43) Urban redevelopment. To organize and operate an urban redevelopment program;

35 (44) Vehicles for hire. To regulate and license vehicles operated for hire in the town; to
36 limit the number of such vehicles; to require the operators thereof to be licensed; to

1 require public liability insurance on such vehicles in the amounts to be prescribed by
2 ordinance; and to regulate the parking of such vehicles; and

3 (45) Other powers. To exercise and enjoy all other powers, functions, rights, privileges,
4 and immunities necessary or desirable to promote or protect the safety, health, peace,
5 security, good order, comfort, convenience, or general welfare of the town and its
6 inhabitants; to exercise all implied powers necessary to carry into execution all powers
7 granted in this charter as fully and completely as if such powers were fully stated herein;
8 to exercise all powers now or in the future authorized to be exercised by other municipal
9 governments under other laws of the State of Georgia; and no listing of particular powers
10 in this charter shall be held to be exclusive of others, nor restrictive of general words and
11 phrases granting powers, but shall be held to be in addition to such powers unless
12 expressly prohibited to municipalities under the Constitution or applicable laws of the
13 State of Georgia.

14 **SECTION 1.14.**

15 Exercise of powers.

16 All powers, functions, rights, privileges, and immunities of the town, its officers, agencies,
17 or employees shall be carried into execution as provided by this charter. If this charter makes
18 no provision, such shall be carried into execution as provided by ordinance or as provided
19 by pertinent laws of the State of Georgia.

20 **ARTICLE II**

21 **GOVERNMENT STRUCTURE**

22 **SECTION 2.10.**

23 Town council creation; number; election.

24 The legislative authority of the government of this town, except as otherwise specifically
25 provided in this charter, shall be vested in a town council to be composed of a mayor and
26 four council members. The mayor and council members shall be elected in the manner
27 provided by this charter.

28 **SECTION 2.11.**

29 Town council terms and qualifications for office.

30 The members of the town council shall serve for terms of four years and until their respective
31 successors are elected and sworn in. No person shall be eligible to serve as mayor or council

1 member unless he or she shall have been a resident of the town for 12 months prior to the
 2 date of qualification for the election of mayor or council member, as the case may be. Each
 3 such official shall continue to reside in the town during his or her period of service and
 4 continue to be registered and qualified to vote in municipal elections of the town.

5 **SECTION 2.12.**

6 Vacancy; suspensions; filling of vacancies.

7 (a) Vacancy. The office of mayor or council member shall become vacant upon the
 8 incumbent's death, resignation, forfeiture of office, or removal from office in any manner
 9 authorized by this charter or the general laws of the State of Georgia. A vacancy in the office
 10 of mayor or council member shall be filled for the remainder of the unexpired term, if any,
 11 by appointment of the mayor and council. A failure to take the oath of office within 15 days
 12 after the first day of January, unless for providential cause, shall operate to vacate the office
 13 of the mayor or council member.

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

19 (c) Filling vacancy. In the event of a vacancy in the office of mayor or council member
 20 prior to the expiration of a regular term of office, the remaining council members and mayor,
 21 as provided in subsection (a) of this section, shall fill the vacant office for the unexpired
 22 term, provided that the person or persons selected shall meet the requirements of Section 2.11
 23 of this charter.

24 **SECTION 2.13.**

25 Compensation and expenses.

26 The mayor and council members shall receive compensation and expenses for their services
 27 as provided by ordinance. The mayor and council members shall not receive any salary.

SECTION 2.14.

Conflicts of interest; holding other offices.

(a) Officers as trustees. Elected and appointed officers of the town are trustees and servants of the residents of the town and shall act in a fiduciary capacity for the benefit of such residents.

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

(1) Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her official duties or which would tend to impair the independence of his or her judgment or action in the performance of his or her official duties;

(2) Engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair the independence of his or her judgment or action in the performance of his or her official duties;

(3) Disclose confidential information concerning the property, government, or affairs of the governmental body by which he or she is engaged without proper legal authorization or use such information to advance the financial or other private interest of himself or herself or others;

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

(5) Represent private interests in any legal action or proceeding against this town or any portion of its government; or

(6) Vote or otherwise participate in the negotiation or in the making of any contract with any business or entity in which he or she has a financial interest.

(c) Disclosure. Any elected official, appointed officer, or employee who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the town shall disclose such private interest to the town council.

The mayor or any council member who has a private interest in the matter pending before mayor and council shall disclose such private interest and such disclosure shall be entered on the records of the town council, and he or she shall disqualify himself or herself from participating in any decision or vote relating thereto. Any elected official, appointed officer,

1 or employee of any agency or political entity to which this charter applies who shall have any
 2 private financial interest, directly or indirectly, in any contract or matter pending before or
 3 within such entity shall disclose such private interest to the governing body of such agency
 4 or entity.

5 (d) Use of public property. No elected official, appointed officer, or employee of the town
 6 or any agency or entity to which this charter applies shall use property owned by such
 7 governmental entity for personal benefit, convenience, or profit except in accordance with
 8 policies promulgated by mayor and council or the governing body of such agency or entity.

9 (e) Contracts voidable and rescindable. Any violation of this section which occurs with the
 10 knowledge, express or implied, of a party to a contract or sale shall render said contract or
 11 sale voidable at the option of the mayor and council.

12 (f) Ineligibility of elected official. Except where authorized by law, neither the mayor nor
 13 any council member shall hold any other elective or compensated appointive office in town
 14 government during the term for which he or she was elected.

15 (g) Penalties for violation.

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

19 (2) Any officer or employee of the town who shall forfeit his or her office or position as
 20 described in paragraph (1) of this subsection shall be ineligible for appointment or
 21 election to or employment in a position in the town government for a period of three
 22 years thereafter.

23 **SECTION 2.15.**

24 Inquiries and investigations.

25 The mayor and council may make inquiries and investigations into the affairs of the town and
 26 the conduct of any department, office, or agency thereof and for this purpose may subpoena
 27 witnesses, administer oaths, take testimony, and require the production of evidence. Any
 28 person who fails or refuses to obey a lawful order issued in the exercise of these powers by
 29 mayor and council shall be punished as provided by ordinance.

30 **SECTION 2.16.**

31 General power and authority of the mayor and council.

32 Except as otherwise provided by law or this charter, the mayor and council shall be vested
 33 with all the powers of government of this town as provided by Article I of this charter.

1 (c) All meetings of the mayor and council shall be public to the extent required by law, and
2 notice to the public of special meetings shall be made as fully as is reasonably possible prior
3 to such meetings.

4 **SECTION 2.20.**

5 Rules of procedure.

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

9 (b) All committees, boards, and commissions of citizens shall be appointed by the mayor
10 and council and shall serve at their pleasure. The mayor and council shall have the power
11 to appoint new members to any committee at any time; each committee may appoint its own
12 chairperson, if said chairperson has not been specially appointed by the mayor and council.

13 **SECTION 2.21.**

14 Quorum; voting.

15 Three council members, one of whom may be the mayor, shall constitute a quorum and shall
16 be authorized to transact business of the town council. Voting on the adoption of ordinances
17 shall be by voice vote or raising of right hand and the vote shall be recorded in the journal,
18 but any member of the town council shall have the right to request a roll-call vote and such
19 vote shall be recorded in the journal. Except as otherwise provided in this charter, the
20 affirmative vote of the majority of the quorum in attendance shall be required for the
21 adoption of any ordinance, resolution, or motion.

22 **SECTION 2.22.**

23 Ordinance form; procedure.

24 (a) Every proposed ordinance should be introduced in writing and in the form required for
25 final adoption. No ordinance shall contain a subject that is not expressed in its title. The
26 enacting clause shall be "The Council of the Town of Newborn hereby ordains" and every
27 ordinance shall so begin.

28 (b) An ordinance may be introduced by any council member and be read at a regular or
29 special meeting of the town council. Ordinances shall be considered and adopted or rejected
30 by mayor and council in accordance with the rules which they shall establish; provided,
31 however, an ordinance shall not be adopted the same day it is introduced, except for

1 emergency ordinances provided in Section 2.24 of this charter. Upon introduction of any
2 ordinance, the clerk shall as soon as possible distribute a copy to the mayor and to each
3 council member and shall file a reasonable number of copies in the office of the clerk and
4 at such other public places as mayor and council may designate.

5 **SECTION 2.23.**

6 Action requiring an ordinance.

7 Acts of the mayor and council that have the force and effect of law shall be enacted by
8 ordinance or resolution.

9 **SECTION 2.24.**

10 Emergencies.

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

27 **SECTION 2.25.**

28 Code of technical regulations.

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

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

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

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

9 **SECTION 2.26.**

10 Signing; authenticating; recording; codification; printing.

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

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

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

SECTION 2.27.

Election of mayor; forfeiture; compensation.

The mayor shall be elected and shall serve for a term of four years and until his or her successor is elected and qualified. The mayor shall be a qualified elector of the town and shall have been a resident of the town for 12 months prior to his or her qualification for his or her election. The mayor shall continue to reside in this town during the period of his or her service. He or she shall forfeit his or her office on the same grounds and under the same procedure as for council members. The compensation of the mayor shall be established in the same manner as for council members.

SECTION 2.28.

Chief executive officer.

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

SECTION 2.29.

Powers and duties of mayor.

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

- (1) Preside at all meetings of the town council;
- (2) Be the head of the town for the purpose of service of process and for ceremonial purposes and be the official spokesperson for the town and the chief advocate of policy;
- (3) Have the power to administer oaths and to take affidavits;
- (4) Sign as a matter of course on behalf of the town all written and approved contracts, ordinances, and other instruments executed by the town which by law are required to be in writing;
- (5) Vote on matters before mayor and council and be counted toward a quorum as any other council member;
- (6) Have prepared and submitted to the council, with council input, a recommended annual operating budget and recommended capital budget;
- (7) Assign council members to their committees of responsibilities at the first scheduled council meeting of the term of office; and
- (8) Fulfill such other executive and administrative duties as the mayor and council shall establish by ordinance.

SECTION 3.11.

Boards, commissions.

(a) The mayor and council shall create by ordinance or resolution such boards, commissions, and authorities to fulfill any functions that the mayor and council deem necessary and shall by ordinance or resolution establish the composition, period of existence, duties, and powers thereof.

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

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

(d) Except as otherwise provided by this charter or by law, no member of any board, commission, or authority shall hold any elective office in the town; this charter shall specifically permit elected town officials to serve on said boards, commissions, or authorities as an uncompensated member.

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

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

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

(h) Except as otherwise provided by this charter or by law, each board, commission, or authority of the town may elect one of its members as chairperson and one member as vice chairperson and may elect as its secretary one of its own members or may appoint as secretary an employee of the town, provided that the mayor and council did not specially appoint a chairperson at the time of appointment. Each board may pass rules and regulations, not inconsistent with this charter, ordinances of the town, or law, as it deems appropriate and necessary for the fulfillment of its duties or the conduct of its affairs. Copies of such rules and regulations, as they exist, shall be filed with the clerk of the town.

1 B. Administrative Officers.

2 **SECTION 3.12.**

3 Town attorney.

4 The mayor and council shall appoint a town attorney at the first scheduled meeting of the
5 calendar year, together with such assistant town attorneys as may be authorized, and shall
6 provide for the payment of such attorney or attorneys for services rendered to the town. The
7 town attorney shall be responsible for representing and defending the town in all litigation
8 in which the town is a party; may be solicitor in the municipal court; shall attend the
9 meetings of the council as directed; shall advise the council, mayor, and other officers and
10 employees of the town concerning legal aspects of the town's affairs; and shall perform such
11 other duties as may be required of him or her by virtue of his or her position as town
12 attorney. This appointment is terminable at will by the mayor and council.

13 **SECTION 3.13.**

14 Town clerk.

15 The mayor and council shall appoint a town clerk at the first scheduled meeting of the
16 calendar year, who shall not be a council member. The town clerk shall be custodian of the
17 official town seal; maintain town council records required by this charter; and perform such
18 other duties as may be required by the town council. This appointment is terminable at will
19 by the mayor and council.

20 **SECTION 3.14.**

21 Town treasurer.

22 The mayor and council may appoint a town treasurer at the first scheduled meeting of the
23 calendar year to collect all taxes, licenses, fees, and other moneys belonging to the town
24 subject to the provisions of this charter and the ordinances of the town and to enforce all laws
25 of Georgia relating to the collection of delinquent taxes and sale or foreclosure for
26 nonpayment of taxes to the town. The town treasurer shall also be responsible for the general
27 duties of a treasurer and fiscal officer. This appointment is terminable at will by the mayor
28 and council.

SECTION 3.15.

Chief of police.

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3 The mayor and council may appoint a chief of police at the first scheduled meeting of the
4 calendar year to perform the duties as the administrative officer of the police department and
5 have all the powers of an arresting officer within the Town of Newborn; he or she shall
6 further have all the powers usual and incident to such office; he or she shall have the power
7 to serve all papers, summons, and citations and execute all writs and executions directed by
8 the town and the State of Georgia; he or she shall perform all duties prescribed by state law
9 and by this charter; and he or she shall carry out such other duties as the mayor and council
10 may lawfully direct. The town through the mayor and council shall have the power to hire
11 additional police officers to assist the chief of police in his or her duties and to act in his or
12 her stead. This appointment is terminable at will by the mayor and council.

SECTION 3.16.

Municipal judge.

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15 The mayor and council may appoint a municipal judge at the first scheduled meeting of the
16 calendar year whose duty it shall be to try all cases of violation of the town ordinances and
17 perform such functions and acts as may be laid upon him or her by the provisions of this
18 charter or shall be from time to time placed upon him or her by the ordinances or bylaws
19 adopted by the mayor and council of the Town of Newborn. This appointment is terminable
20 at will by the mayor and council.

SECTION 3.17.

Fire chief.

21
22
23 The mayor and council may appoint a fire chief at the first scheduled meeting of the calendar
24 year whose duty it shall be to perform the duties of the administrative officer of the fire
25 department and have all the powers usual and incident to such office. The town through the
26 mayor and council shall have the power to specify such powers through resolution as it sees
27 fit and have the power to hire additional firefighters to assist the fire chief in his or her duties
28 and to act in his or her stead. This appointment is terminable at will by the mayor and
29 council.

- 1 (b) The municipal court shall have authority to punish those in its presence for contempt,
2 provided that such punishment shall not exceed \$200.00 or ten days in jail.
- 3 (c) The municipal court may fix punishment for offenses within its jurisdiction not
4 exceeding a fine of \$1,000.00 or imprisonment for six months or both such fine and
5 imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing as now
6 or hereafter provided by law.
- 7 (d) The municipal court shall have authority to establish a schedule of fees to defray the cost
8 of operation and shall be entitled to reimbursement of the cost of meals, transportation, and
9 caretaking of prisoners bound over to superior courts for violations of state law.
- 10 (e) The municipal court shall have authority to establish bail and recognizances to ensure
11 the presence of those charged with violations before said court and shall have discretionary
12 authority to accept cash or personal or real property as surety for the appearance of persons
13 charged with violations. Whenever any person shall give bail for his or her appearance and
14 shall fail to appear at the time fixed for trial, his or her bond shall be forfeited by the judge
15 presiding at such time and an execution issued thereon by serving the defendant and his or
16 her sureties with a rule nisi at least two days before a hearing on the rule nisi. In the event
17 that cash or property is accepted in lieu of bond for security for the appearance of a defendant
18 at trial and if such defendant fails to appear at the time and place fixed for trial, the cash so
19 deposited shall be, on order of the judge, declared forfeited to the town or the property so
20 deposited shall have a lien against it for the value forfeited, which lien shall be enforceable
21 in the same manner and to the same extent as a lien for town property taxes.
- 22 (f) The municipal court shall have the same authority as superior courts to compel the
23 production of evidence in the possession of any party; to enforce obedience to its orders,
24 judgments, and sentences; and to administer such oaths as are necessary.
- 25 (g) The municipal court may compel the presence of all parties necessary to a proper
26 disposal of each case by the issuance of summonses, subpoenas, and warrants which may be
27 served as executed by any officer as authorized by this charter or by law.
- 28 (h) Each judge of the municipal court shall be authorized to issue warrants for the arrest of
29 persons charged with offenses against any ordinance of the town and each judge of the
30 municipal court shall have the same authority as a magistrate of the state to issue warrants
31 for offenses against state laws committed within the town.
- 32 (i) The municipal court is specifically vested with all the jurisdiction and powers throughout
33 the geographic area of this town granted by law to municipal courts and particularly by such
34 laws as authorize the abatement of nuisances and prosecution of traffic violations.

SECTION 5.12.

Nonpartisan elections.

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

SECTION 5.13.

Election by plurality.

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

SECTION 5.14.

First election under this charter.

The first municipal election after the adoption of this charter shall be held in November, 2005, at which all council member positions, each of which shall be elected at large, shall be filled. All persons giving notice of candidacy for a town council seat shall designate the post being sought. All council member positions shall be filled at this first election for an initial term of four years and until their respective successors are elected and sworn in such that a continuing body is created. Each council member elected shall serve a full term as provided in Section 2.11 of this charter. The office of mayor shall be filled at the election in November, 2005, for an initial term of four years and until his or her successor is elected and sworn in such that continuing position of mayor is created. The mayor elected shall serve a full term as provided in Section 2.27 of this charter. The position of the mayor shall be filled every four years hereafter.

C. Other Provisions.

SECTION 5.15.

Other provisions.

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

SECTION 6.11.

Millage rate; due date; payment methods.

The mayor and council by resolution may establish a millage rate for the town property tax, a due date, and the time period within which these taxes must be paid. The mayor and council by resolution may provide for the payment of these taxes by voluntary payment of taxes prior to the time when due.

SECTION 6.12.

Occupation taxes and business taxes.

The mayor and council by resolution shall have the power to levy such occupation or business taxes allowed by law. Such taxes may be levied on both individuals and corporations who transact business in this town or who practice or offer to practice any profession or calling therein to the extent such persons have a constitutionally sufficient nexus to this town to be so taxed. The mayor and council may classify businesses, occupations, professions, or callings for the purpose of such taxation in any way which may be lawful and may compel the payment of such taxes as provided in Section 6.18 of this charter.

SECTION 6.13.

Regulatory licenses, fees, permits.

The mayor and council by resolution shall have the power to require any individuals or corporations who transact business in this town or who practice or offer to practice any profession or calling therein to obtain a license or permit for such activity from the town and pay a reasonable fee for such license or permit where such activities are not now regulated by general law in such a way as to preclude town regulation. Such fees may reflect the total cost to the town of regulating the activity and, if unpaid, shall be collected as provided in Section 6.18 of this charter. The mayor and council by resolution may establish reasonable requirements for obtaining or keeping such licenses as the public health, safety, and welfare necessitate.

SECTION 6.14.

Franchises.

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3 The mayor and council shall have the power to grant franchises for the use of the town's
4 streets and alleys for the purposes of railroads, street railways, telephone companies, electric
5 companies, cable television, gas companies, transportation companies, and other similar
6 organizations. The mayor and council shall determine the duration, terms, whether the same
7 shall be exclusive or nonexclusive, and the consideration for such franchises; provided,
8 however, no franchise shall be granted unless the town receives just and adequate
9 compensation therefor. The mayor and council shall provide for the registration of all
10 franchises with the town clerk in a registration book kept by the clerk. The mayor and
11 council may provide by resolution for the registration within a reasonable time of all
12 franchises previously granted.

SECTION 6.15.

Services charges.

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

SECTION 6.16.

Special assessments.

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

SECTION 6.21.

Short-term loans.

The town 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 town may enter into multiyear lease, purchase, or lease-purchase contracts for the acquisition of goods, materials, real and personal property, services, and supplies. 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. The town may further enter into lease, purchase, and lease-purchase contracts for its property as is permitted by law.

C. Accounting and Budgeting.

SECTION 6.23.

Fiscal year.

The mayor and council shall set the fiscal year by resolution. 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 town government.

SECTION 6.24.

Preparation of budget.

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

SECTION 6.25.

Submission of budget to town council.

On or before a date fixed by the mayor and council, but not later than 60 days prior to the beginning of each fiscal year, the mayor, after soliciting council input, shall submit to the

1 council a proposed operating budget for the ensuing fiscal year. The budget shall be
 2 accompanied by a message from the mayor containing a statement of the general fiscal
 3 policies of the town, the important features of the budget, explanations of major changes
 4 recommended for the next fiscal year, a general summary of the budget, and such other
 5 comments and information as he or she may deem pertinent. The operating budget and the
 6 capital improvements budget provided for in Section 6.24 of this charter, the budget message,
 7 and all supporting documents shall be filed in the office of the town clerk and shall be open
 8 to public inspection.

9 **SECTION 6.26.**

10 Action by town council on budget.

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

16 (b) The mayor and council, by resolution, shall adopt the final operating budget for the
 17 ensuing fiscal year not later than December 31 of each year. If the mayor and council fail
 18 to adopt the budget by this date, the amounts appropriated for operation for the current fiscal
 19 year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all
 20 items prorated accordingly until such time as the mayor and council adopt a budget for the
 21 ensuing fiscal year. Adoption of the budget shall take the form of an appropriations
 22 resolution setting out the estimated revenues in detail by sources and making appropriations
 23 according to fund and by organizational unit, purpose, or activity as set out in the budget
 24 preparation resolution adopted pursuant to Section 6.24 of this charter.

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

29 **SECTION 6.27.**

30 Tax levies.

31 Following adoption of the operating budget, the mayor and council shall levy by resolution
 32 such taxes as are necessary. The taxes and tax rates set by such resolution shall be such that
 33 reasonable estimates of revenues from such levy shall at least be sufficient, together with

1 other anticipated revenues, fund balances, and applicable reserves, to equal the total amount
2 appropriated for each of the several funds set forth in the annual operating budget for
3 defraying the expenses of the general government of the town.

4 **SECTION 6.28.**

5 Changes in appropriations.

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

10 **SECTION 6.29.**

11 Independent audit.

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

17 **D. Procurement and Property Management.**

18 **SECTION 6.30.**

19 Contracting procedures.

20 No contract with the town shall be binding on the town unless it is made pursuant to
21 procedures established by mayor and council and:

22 (1) It is in writing;

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

25 (3) It is made or authorized by the mayor and council and such approval is entered in the
26 town journal of proceedings pursuant to Section 2.20 of this charter.

SECTION 7.11.

Prior ordinances.

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

SECTION 7.12.

Pending matters.

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

SECTION 7.13.

Definitions and construction.

- (a) Section captions in this charter are informative only and are not to be considered as a part thereof.
- (b) The word "shall" is mandatory and the word "may" is permissive.
- (c) The singular shall include the plural, the masculine shall include the feminine, and vice versa.

SECTION 7.14.

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, or part thereof be enacted separately and independent of each other.

