

House Bill 1223

By: Representative Jamieson of the 22nd

A BILL TO BE ENTITLED
AN ACT

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

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 ARTICLE I
24 INCORPORATION AND POWERS

1 destruction of animals and fowl when not redeemed as provided by ordinance; and to
2 provide punishment for violation of ordinances enacted hereunder;

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

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

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

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

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

22 (7) Emergencies. To establish procedures for determining and proclaiming that an
23 emergency situation exists within or without the city and to make and carry out all
24 reasonable provisions deemed necessary to deal with or meet such an emergency for the
25 protection, safety, health, or well-being of the citizens of the city;

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

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

35 (10) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection
36 and disposal and other sanitary service charge, tax, or fee for such services as may be
37 necessary in the operation of the city from all individuals, firms, and corporations

1 residing in or doing business therein benefiting from such services; to enforce the
2 payment of such charges, taxes, or fees; and to provide for the manner and method of
3 collecting such service charges;

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

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

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

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

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

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

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

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

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

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

1 and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties and
2 to provide for the withdrawal of service for refusal or failure to pay the same;

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

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

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

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

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

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

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

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

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

34 (30) Regulation of roadside areas. To prohibit or regulate and control the erection,
35 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any
36 and all other structures or obstructions upon or adjacent to the rights of way of streets and

1 roads or within view thereof, within or abutting the corporate limits of the city; and to
2 prescribe penalties and punishment for violation of such ordinances;

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

5 (32) Roadways. To layout, open, extend, widen, narrow, establish or change the grade
6 of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise
7 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and
8 walkways within the corporate limits of the city; and to grant franchises and rights of way
9 throughout the streets and roads and over the bridges and viaducts for the use of public
10 utilities; and to require real estate owners to repair and maintain in a safe condition the
11 sidewalks adjoining their lots or lands and to impose penalties for failure to do so;

12 (33) Sewer fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring,
13 constructing, equipping, operating, maintaining, and extending of a sewage disposal plant
14 and sewerage system and to levy on those to whom sewers and sewerage systems are
15 made available a sewer service fee, charge, or sewer tax for the availability or use of the
16 sewers; to provide for the manner and method of collecting such service charges and for
17 enforcing payment of the same; and to charge, impose, and collect a sewer connection fee
18 or fees to those connected with the system;

19 (34) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish,
20 and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by
21 others; to provide for the separate collection of glass, tin, aluminum, cardboard, paper,
22 and other recyclable materials and to provide for the sale of such items;

23 (35) Special areas of public regulation. To regulate or prohibit junk dealers, pawn shops,
24 the manufacture, sale, or transportation of intoxicating liquors, and the use and sale of
25 firearms; to regulate the transportation, storage, and use of combustible, explosive, and
26 inflammable materials, the use of lighting and heating equipment, and any other business
27 or situation which may be dangerous to persons or property; to regulate and control the
28 conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows
29 of any kind, by taxation or otherwise; and to license, tax, regulate, or prohibit
30 professional fortunetelling, palmistry, adult bookstores, and massage parlors;

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

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

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

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

5 (40) Urban redevelopment. To organize and operate an urban redevelopment program;
 6 and

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

18 **SECTION 1.5.**

19 Exercise of Powers.

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

24 **ARTICLE II**

25 **GOVERNMENT STRUCTURE**

26 **SECTION 2.1.**

27 City council creation; number; election.

28 The legislative authority of the government of this city, except as otherwise specifically
 29 provided in this charter, shall be vested in a city council to be composed of a mayor and five
 30 councilmembers. The city council established shall in all respects be a successor to and
 31 continuation of the governing authority under prior law. The mayor and councilmembers
 32 shall be elected in the manner provided by general law and this charter.

SECTION 2.2.

City council terms and qualifications for office.

The members of the city council shall serve for terms of four years and until their respective successors are elected and qualified. No person shall be eligible to serve as mayor or councilmember unless that person shall have been a resident of the city for 12 months prior to the date of election of mayor or members of the council; each shall continue to reside therein during that member's period of service and to be registered and qualified to vote in municipal elections of this city. The existing mayor and councilmembers shall continue to serve until the expiration of their current terms.

SECTION 2.3.

Vacancy; filling of vacancies.

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

(b) Filling of vacancies. A vacancy in the office of mayor or councilmember shall be filled for the remainder of the unexpired term, if any, by appointment if less than 12 months remain in the unexpired term, otherwise by an election, as provided for in Section 5.5 of this charter and in accordance with Titles 21 and 45 of the O.C.G.A., or other such laws as are or may hereafter be enacted.

SECTION 2.4.

Compensation and expenses.

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

SECTION 2.5.

Conflicts of interest; holding other offices.

(a) Elected and appointed officers of the city are trustees and servants of the residents of the city 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 city or any agency or political entity to which this charter applies shall knowingly:

- 1 (1) Engage in any business or transaction or have a financial or other personal interest,
2 direct or indirect, which is incompatible with the proper discharge of that person's official
3 duties or which would tend to impair the independence of the official's judgment or
4 action in the performance of those official duties;
- 5 (2) Engage in or accept private employment or render services for private interests when
6 such employment or service is incompatible with the proper discharge of that person's
7 official duties or would tend to impair the independence of the official's judgment or
8 action in the performance of those official duties;
- 9 (3) Disclose confidential information, including information obtained at meetings which
10 are closed pursuant to Chapter 14 of Title 50 of the O.C.G.A., concerning the property,
11 government, or affairs of the governmental body by which the official is engaged without
12 proper legal authorization or use such information to advance the financial or other
13 private interest of the official or others;
- 14 (4) Accept any valuable gift, whether in the form of service, loan, thing, or promise,
15 from any person, firm, or corporation which to the official's knowledge is interested,
16 directly or indirectly, in any manner whatsoever, in business dealings with the
17 governmental body by which the official is engaged; provided, however, that an elected
18 official who is a candidate for public office may accept campaign contributions and
19 services in connection with any such campaign;
- 20 (5) Represent other private interests in any action or proceeding against this city or any
21 portion of its government; or
- 22 (6) Vote or otherwise participate in the negotiation or in the making of any contract by
23 the city with any business or entity in which the official has a financial interest.
- 24 (c) Disclosure. Any elected official, appointed officer, or employee who shall have any
25 financial interest, directly or indirectly, in any contract or matter pending before or within
26 any department of the city shall disclose such interest to the city council. The mayor or any
27 councilmember who has a financial interest in any matter pending before the city council
28 shall disclose such interest and such disclosure shall be entered on the records of the city
29 council, and that official shall disqualify himself or herself from participating in any
30 discussion, decision, or vote relating thereto.
- 31 (d) Use of public property. No elected official, appointed officer, or employee of the city
32 or any agency or entity to which this charter applies shall use property owned by such
33 governmental entity for personal benefit, convenience, or profit except in accordance with
34 policies promulgated by the city council or the governing body of such agency or entity.
- 35 (e) Contracts voidable and rescindable. Any violation of this section which occurs with the
36 knowledge, express or implied, of a party to a contract or sale shall render said contract or
37 sale voidable at the option of the city council.

1 (f) Ineligibility of elected official. Except where authorized by law, neither the mayor nor
 2 any councilmember shall hold any other elective or compensated appointive office in the city
 3 or otherwise be employed by said government or any agency thereof during the term for
 4 which that official was elected. No former mayor and no former councilmember shall hold
 5 any compensated appointive office in the city until one year after the expiration of the term
 6 for which that official was elected.

7 (g) Political activities of certain officers and employees. No appointive officer of the city
 8 shall continue in such employment upon qualifying as a candidate for nomination or election
 9 to any public office. No employee of the city shall continue in such employment upon
 10 election to any public office in this city or any other public office which is inconsistent,
 11 incompatible, or in conflict with the duties of the city employee. Such determination shall
 12 be made by the mayor and council either immediately upon election or at any time such
 13 conflict may arise.

14 (h) Penalties for violation.

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

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

22 **SECTION 2.6.**

23 Inquiries and investigations.

24 Following the adoption of an authorizing resolution, the city council may make inquiries and
 25 investigations into the affairs of the city and the conduct of any department, office, or agency
 26 thereof and for this purpose may subpoena witnesses, administer oaths, take testimony, and
 27 require the production of evidence. Any person who fails or refuses to obey a lawful order
 28 issued in the exercise of these powers by the city council shall be punished as provided by
 29 ordinance. This provision is intended to allow the council to conduct comprehensive
 30 investigations of the city's affairs as well as the conduct of any of its departments, offices or
 31 agencies so as to maintain proper legislative oversight of city government. The inquiries and
 32 investigations authorized may only be conducted by the council, not individual
 33 councilmembers, and only for the purposes of an official investigation.

SECTION 2.7.

General power and authority of the city council.

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

SECTION 2.8.

Organizational meetings.

In the first month of the year after each city council election, the city council shall hold an organizational meeting. The meeting shall be called to order by the city clerk and the oath of office shall be administered to the newly elected members as follows:

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

SECTION 2.9.

Regular and special meetings.

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

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

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

SECTION 2.10.

Rules of procedure.

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

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

SECTION 2.11.

Quorum; voting.

Three councilmembers shall constitute a quorum and shall be authorized to transact business of the city council. Voting on the adoption of ordinances shall be by voice vote and the vote shall be recorded in the journal, but any member of the city council shall have the right to request a roll-call vote and such vote shall be recorded in the journal. Except as otherwise provided in this charter, the affirmative vote of three councilmembers shall be required for the adoption of any ordinance, resolution, or motion. An abstention shall not be counted as a vote.

SECTION 2.12.

Ordinance form; procedures.

(a) Every proposed ordinance should be introduced in writing and in the form required for final adoption.

(b) An ordinance may be introduced by the mayor or any councilmember. Ordinances shall be considered and adopted or rejected by the city council in accordance with the rules which it shall establish.

SECTION 2.13.

Action requiring an ordinance.

Acts of the city council which have the force and effect of law shall be enacted by ordinance. Unless the charter requires the act to be done by ordinance, it generally may be done by resolution. In general, ordinances shall be enacted for legislative acts and resolutions shall be enacted for the administrative measures of the municipality.

SECTION 2.14.

Emergencies.

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

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

SECTION 2.15.

Codes of technical regulations.

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25 (a) The city council may adopt any standard code of technical regulations by reference
26 thereto in an adopting ordinance. The procedure and requirements governing such adopting
27 ordinance shall be as prescribed for ordinances generally.

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

SECTION 2.16.

Signing; authenticating; recording; codification; printing.

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

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

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

SECTION 2.17.

Election of mayor; forfeiture; compensation.

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

1 nonelective offices, positions of employment, departments, and agencies of the city as
2 necessary for the proper administration of the affairs and government of this city.

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

6 (c) All appointive officers and directors of departments shall receive such compensation as
7 prescribed by the city council from time to time.

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

12 (e) All appointive officers and directors under the supervision of the mayor shall be
13 appointed by the city council. All appointive officers and directors shall be employees at will
14 and subject to removal or suspension at any time by the city council unless otherwise
15 provided by law or ordinance.

16 **SECTION 3.2.**

17 **Boards, commissions, and authorities.**

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

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

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

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

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

33 (f) All board members shall serve at will and may be removed at any time by a vote of three
34 members of the city council unless otherwise provided by law.

1 (g) Except as otherwise provided by this charter or by law, each board, commission, or
 2 authority of the city shall elect one of its members as chairperson and one member as vice
 3 chairperson and may elect as its secretary one of its own members or may appoint as
 4 secretary an employee of the city. Each board, commission, or authority of the city
 5 government may establish such bylaws, rules, and regulations, not inconsistent with this
 6 charter, ordinances of the city, or law, as it deems appropriate and necessary for the
 7 fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and
 8 regulations shall be filed with the clerk of the city.

9 **SECTION 3.3.**

10 City attorney.

11 The city council shall appoint a city attorney and shall provide for the payment of such
 12 attorney for services rendered to the city. The city attorney, either directly or through his or
 13 her designee, shall be responsible for providing for the representation and defense of the city
 14 in all litigation in which the city is a party; may be the prosecuting officer in the municipal
 15 court; shall attend the meetings of the city council as directed; shall advise the city council,
 16 mayor, and other officers and employees of the city concerning legal aspects of the city's
 17 affairs; and shall perform such other duties as may be required by virtue of the person's
 18 position as city attorney.

19 **SECTION 3.4.**

20 City clerk.

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

25 **ARTICLE IV**

26 **JUDICIAL BRANCH**

27 **SECTION 4.1.**

28 Creation; name.

29 Upon activation by action of the mayor and city council, there shall be a court to be known
 30 as the Municipal Court of the City of Homer.

SECTION 4.2.

Chief judge; associate judge.

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

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

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

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

(e) Before assuming office, each judge shall take an oath, given by the mayor, that such judge will honestly and faithfully discharge the duties of the office to the best of that person's ability and without fear, favor, or partiality. The oath shall be entered upon the minutes of the city council journal required in Section 2.10 of this charter.

SECTION 4.3.

Convening.

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

SECTION 4.4.

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 the maximum fines and jail time permitted by state law.

(c) The municipal court may fix punishment for offenses within its jurisdiction not exceeding the maximum fines and jail time permitted by state law.

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

(e) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before said court and shall have discretionary

1 authority to accept cash or personal or real property as surety for the appearance of persons
2 charged with violations. Whenever any person shall give bail for that person's appearance
3 and shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge
4 presiding at such time and an execution issued thereon by serving the defendant and the
5 defendant's sureties with a rule nisi at least two days before a hearing on the rule nisi. In the
6 event that cash or property is accepted in lieu of bond for security for the appearance of a
7 defendant at trial, and if such defendant fails to appear at the time and place fixed for trial,
8 the cash so deposited shall be on order of the judge declared forfeited to the city, or the
9 property so deposited shall have a lien against it for the value forfeited which lien shall be
10 enforceable in the same manner and to the same extent as a lien for city property taxes.

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

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

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

21 **SECTION 4.5.**

22 Certiorari.

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

27 **SECTION 4.6.**

28 Rules for court.

29 With the approval of the city council, the judge shall have full power and authority to make
30 reasonable rules and regulations necessary and proper to secure the efficient and successful
31 administration of the municipal court; provided, however, that the city council may adopt in
32 part or in toto the rules and regulations applicable to municipal courts. The rules and
33 regulations made or adopted shall be filed with the city clerk, shall be available for public

1 inspection, and, upon request, a copy shall be furnished to all defendants in municipal court
2 proceedings at least 48 hours prior to said proceedings.

3 **ARTICLE V**
4 **ELECTIONS AND REMOVAL**

5 **SECTION 5.1.**

6 Applicability of general law.

7 All primaries and elections shall be held and conducted in accordance with Chapter 2 of Title
8 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

9 **SECTION 5.2.**

10 Regular elections; time for holding.

11 In odd-numbered years, on the Tuesday next following the first Monday in November there
12 shall be an election for the mayor and the city council. The terms of office shall begin on
13 January 1 following the November election.

14 **SECTION 5.3.**

15 Nonpartisan elections.

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

18 **SECTION 5.4.**

19 Election by plurality.

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

21 **SECTION 5.5.**

22 Special elections; vacancies.

23 In the event that the office of mayor or councilmember shall become vacant as provided in
24 Section 2.3 of this charter, the city council or those remaining shall order a special election
25 to fill the balance of the unexpired term of such official; provided, however, if such vacancy
26 occurs within 12 months of the expiration of the term of that office, the city council or those

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

4 **SECTION 5.6.**

5 Other provisions.

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

9 **SECTION 5.7.**

10 Removal of officers.

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

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

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

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

SECTION 6.5.

Franchises.

(a) The city council shall have the power to grant franchises for the use of the 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. The city council may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

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

SECTION 6.6.

Service charges.

The city council by ordinance shall have the power to assess and collect fees, charges, and tolls for sewers, sanitary and health services, or any other services provided or made available within and outside the corporate limits of the city. If unpaid, such charges shall be collected as provided in Section 6.9 of this charter.

SECTION 6.7.

Special assessments.

The city council by ordinance shall have the power to assess and collect the cost of constructing, reconstructing, widening, or improving any public way, street, sidewalk, curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property owners under such terms and conditions as are authorized by law. If unpaid, such charges shall be collected as provided in Section 6.9 of this charter.

SECTION 6.8.

Construction; other taxes and fees.

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

SECTION 6.9.

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 6.1 through 6.8 of this charter by whatever 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.fa.'s; creation and priority of liens; making delinquent taxes and fees personal debts of the persons required to pay the taxes or fees imposed; revoking city permits for failure to pay any city taxes or fees; and providing for the assignment or transfer of tax executions.

SECTION 6.10.

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 6.11.

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 6.12.

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 permitted by law.

SECTION 6.13.

Lease-purchase contracts.

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

SECTION 6.14.

Fiscal year.

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

SECTION 6.15.

Preparation of budgets.

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

SECTION 6.16.

Submission of operating budget to city council.

On or before a date fixed by the city council, the mayor shall submit to the city council a proposed operating budget for the ensuing fiscal year. The operating budget and the capital

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

3 **SECTION 6.17.**

4 Action by city council on budget.

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

10 (b) If the city council fails to adopt the budget by the first day of the ensuing fiscal year, the
11 amounts appropriated for operation for the current fiscal year shall be deemed adopted for
12 the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly until
13 such time as the city council adopts a budget for the ensuing fiscal year. Adoption of the
14 budget shall take the form of an appropriations ordinance setting out the estimated revenues
15 by sources and making appropriations according to fund and by organizational unit, purpose,
16 or activity.

17 (c) The amount set out in the adopted operating budget for each organizational unit shall
18 constitute the annual appropriation for such unit, and no expenditure shall be made or
19 encumbrance created in excess of the otherwise unencumbered balance of the appropriations
20 or allotment thereof to which it is chargeable without amendment to the budget by the city
21 council.

22 **SECTION 6.18.**

23 Tax levies.

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

SECTION 6.19.

Changes in appropriations.

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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 6.20.

Capital budget.

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8
9 (a) On or before the date fixed by the city council, the mayor shall submit to the city council
10 a proposed capital improvements plan with a recommended capital budget containing the
11 means of financing the improvements proposed for the ensuing fiscal year. The city council
12 shall have power to accept, with or without amendments, or reject the proposed plan and
13 proposed budget. The city council shall not authorize an expenditure for the construction of
14 any building, structure, work, or improvement unless the appropriations for such project are
15 included in the capital budget or an amendment thereto, except to meet a public emergency
16 as provided in Section 2.14 of this charter.

17 (b) The city council shall adopt by ordinance the final capital budget for the ensuing fiscal
18 year as soon as possible. No appropriation provided for in a prior capital budget shall lapse
19 until the purpose for which the appropriation was made shall have been accomplished or
20 abandoned; provided, however, the mayor may submit amendments to the capital budget at
21 any time during the fiscal year, accompanied by recommendations. Any such amendments
22 to the capital budget shall become effective only upon adoption by ordinance.

SECTION 6.21.

Independent audit.

23
24
25 There shall be an annual independent audit of all city accounts, funds, and financial
26 transactions by a certified public accountant selected by the city council. The audit shall be
27 conducted according to generally accepted auditing principles and shall comply with all
28 applicable state law. Subject to any applicable requirements of state law, any audit of any
29 funds by the state or federal governments may be accepted as satisfying the requirements of
30 this charter. Copies of annual audit reports shall be available at printing costs to the public.

SECTION 6.22.

Contracting procedures.

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

(1) It is in writing;

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

(3) It is made or authorized by the city council and such approval is entered in the city council journal of proceedings.

SECTION 6.23.

Centralized purchasing.

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

SECTION 6.24.

Sale and lease of city property.

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

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

(c) Whenever in opening, extending, or widening any street, avenue, alley, or public place of the city a small parcel or tract of land is cutoff or separated by such work from a larger tract or boundary of land owned by the city, the city council, subject to any applicable law to the contrary, may authorize the mayor to sell and convey said cutoff or separated parcel or tract of land to an abutting or adjoining property owner or owners where such sale and conveyance facilitates the enjoyment of the highest and best use of the abutting owner's property. Included in the sales contract shall be a provision for the rights of way of said street, avenue, alley, or public place. Each abutting property owner shall be notified of the availability of the property and given the opportunity to purchase said property under such terms and conditions as set out by ordinance. All deeds and conveyances heretofore and hereafter so executed and delivered shall convey all title and interest the city has in such property.

SECTION 7.5.

Repealer.

An Act incorporating the City of Homer in the County of Banks, approved December 3, 1897 (Ga. L. 1897, p. 234), is hereby repealed in its entirety and all amendatory acts thereto are likewise repealed in their entirety.

SECTION 7.6.

Effective Date.

This Act shall become effective on July 1, 2004.

SECTION 7.7.

General repealer.

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