

House Bill 1353 (AS PASSED HOUSE AND SENATE)

By: Representatives Scott of the 138th, Houston of the 139th, and Roberts of the 131st

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the City of Omega; 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 vice mayor and certain duties, powers, and
8 other matters relative thereto; to provide for administrative affairs and responsibilities; to
9 provide for boards, commissions, and authorities; to provide for a city attorney, a city clerk,
10 a city finance director, a city accountant, and other personnel and matters relating thereto;
11 to provide for rules and regulations; to provide for a municipal court and the judge or judges
12 thereof and other matters relative to those judges; to provide for the court's jurisdiction,
13 powers, practices, and procedures; to provide for the right of certiorari; to provide for
14 elections; to provide for taxation, licenses, and fees; to provide for franchises, service
15 charges, and assessments; to provide for bonded and other indebtedness; to provide for
16 auditing, accounting, budgeting, and appropriations; to provide for city contracts and
17 purchasing; to provide for the conveyance of property; to provide for bonds for officials; to
18 provide for prior ordinances and rules, pending matters, and existing personnel; to provide
19 for penalties; to provide for definitions and construction; to provide council districts; to
20 provide for other matters relative to the foregoing; to repeal a specific Act; to provide for
21 effective dates; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 ARTICLE I
24 INCORPORATION AND POWERS

H. B. 1353

- 1 (4) Building regulation. To regulate and to license the erection and construction of
2 buildings and all other structures; to adopt building, housing, plumbing, electrical, gas,
3 and heating and air conditioning codes; and to regulate all housing and building trades;
- 4 (5) Business regulation and taxation. To levy and to provide for collection of license fees
5 and taxes on privileges, occupations, trades, and professions; to license and regulate the
6 same; to provide for the manner and method of payment of such licenses and taxes; and
7 to revoke such licenses after due process for failure to pay any city taxes or fees;
- 8 (6) Condemnation. To condemn property, inside or outside the corporate limits of the
9 city, for present or future use and for any corporate purpose deemed necessary by the
10 governing authority, utilizing procedures enumerated in Title 22 of the O.C.G.A. or such
11 other applicable laws as are now or may hereafter be enacted;
- 12 (7) Contracts. To enter into contracts and agreements with other governmental entities
13 and with private persons, firms, and corporations;
- 14 (8) Emergencies. To establish procedures for determining and proclaiming that an
15 emergency situation exists within or outside the city and to make and carry out all
16 reasonable provisions deemed necessary to deal with or meet such an emergency for the
17 protection, safety, health, or well-being of the citizens of the city;
- 18 (9) Eminent domain. To acquire, construct, operate, and maintain public ways, parks,
19 public grounds, cemeteries, markets, market houses, public buildings, libraries, sewers,
20 drains, sewage treatment, waterworks, electrical systems, gas systems, airports, hospitals,
21 and charitable, educational, recreational, sport, curative, corrective, detentional, penal,
22 and medical institutions, agencies, and facilities, and any other public improvements
23 inside or outside the city and to regulate the use thereof and, for such purposes, property
24 may be condemned under procedures established under general law applicable now or as
25 provided in the future;
- 26 (10) Fire regulations. To fix and establish fire districts and from time to time to extend,
27 enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with
28 general law, relating to both fire prevention and detection and to fire fighting; and to
29 prescribe penalties and punishment for violations thereof;
- 30 (11) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection
31 and disposal and other sanitary service charge, tax, or fee for such services as may be
32 necessary in the operation of the city from all individuals, firms, and corporations
33 residing in or doing business in the city benefiting from such services; to enforce the
34 payment of such charges, taxes, or fees; and to provide for the manner and method of
35 collecting such service charges;

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

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

8 (14) Health and sanitation. To prescribe standards of health and sanitation and to provide
9 for the enforcement of such standards;

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

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

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

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

25 (19) Municipal property ownership. To acquire, dispose of, and hold in trust or otherwise
26 any real, personal, or mixed property, in fee simple or lesser interest, inside or outside the
27 property limits of the city;

28 (20) Municipal property protection. To provide for the preservation and protection of
29 property and equipment of the city and the administration and use of same by the public;
30 and to prescribe penalties and punishment for violations thereof;

31 (21) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose
32 of public utilities, including, but not limited to, a system of waterworks, sewers and
33 drains, sewage disposal, gas works, electric light plants, transportation facilities, public
34 airports, and any other public utility; and to fix the taxes, charges, rates, fares, fees,
35 assessments, regulations, and penalties and to provide for the withdrawal of service for
36 refusal or failure to pay the same; and to authorize the extension of water, sewerage, and
37 electrical distribution systems, and all necessary appurtenances by which such utilities

1 are distributed, inside and outside the corporate limits of the city, and to provide utility
2 services to persons, firms, and corporations inside the corporate limits of the city as
3 provided by ordinance;

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

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

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

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

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

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

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

26 (29) Public transportation. To organize and operate or contract for such public
27 transportation systems as are deemed beneficial;

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

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

- 1 (32) Retirement. To provide and maintain a retirement plan for officers and employees
2 of the city;
- 3 (33) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade
4 of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise
5 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and
6 walkways within the corporate limits of the city; and to negotiate and execute easements
7 over, through, under, or across any city property or the right of way of any street, road,
8 alley, and walkway or portion thereof within the corporate limits of the city for bridges,
9 passageways, or any other purpose or use between buildings on opposite sides of the
10 street and for other bridges, overpasses, and underpasses for private use at such location
11 and to charge a rental therefor in such manner as may be provided by ordinance; and to
12 authorize and control the construction of bridges, overpasses, and underpasses within the
13 corporate limits of the city; and to grant franchises and rights of way throughout the
14 streets and roads and over the bridges and viaducts for the use of public utilities and for
15 private use; and to require real estate owners to repair and maintain in a safe condition
16 the sidewalks adjoining their lots or lands and to impose penalties for failure to do so;
- 17 (34) Sewer fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring,
18 constructing, equipping, operating, maintaining, and extending of a sewage disposal plant
19 and sewerage system and to levy on those to whom sewers and sewerage systems are
20 made available a sewer service fee, charge, or sewer tax for the availability or use of the
21 sewers; to provide for the manner and method of collecting such service charges and for
22 enforcing payment of the same; and to charge, impose, and collect a sewer connection fee
23 or fees to those connected with the system;
- 24 (35) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish,
25 and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by
26 others; and to provide for the separate collection of glass, tin, aluminum, cardboard,
27 paper, and other recyclable materials and to provide for the sale of such items;
- 28 (36) Special areas of public regulation. To regulate or prohibit junk dealers, pawn shops,
29 the manufacture, sale, or transportation of any intoxicating liquors or alcoholic beverages,
30 and the use and sale of firearms; to regulate the transportation, storage, and use of
31 combustible, explosive, and inflammable materials, the use of lighting and heating
32 equipment, and any other business or situation which may be dangerous to persons or
33 property; to regulate and control the conduct of peddlers and itinerant traders, theatrical
34 performances, exhibitions, and shows of any kind, by taxation or otherwise; and to
35 license, tax, regulate, or prohibit professional fortunetelling, palmistry, adult bookstores,
36 and massage parlors;

1 (37) Special assessments. To levy and provide for the collection of special assessments
 2 to cover the costs for any public improvements;

3 (38) Taxes: ad valorem. To levy and provide for assessment, valuation, revaluation, and
 4 collection of taxes on all property subject to taxation;

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

7 (40) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the
 8 number of such vehicles; to require the operators thereof to be licensed; to require public
 9 liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to
 10 regulate the parking of such vehicles;

11 (41) Urban redevelopment. To organize and operate an urban redevelopment program;
 12 and

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

24 **SECTION 1.13.**

25 Exercise of powers.

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

30 **ARTICLE II**

31 **GOVERNMENT STRUCTURE**

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

3 **SECTION 2.13.**

4 Compensation and expenses.

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

7 **SECTION 2.14.**

8 Conflicts of interest; holding other offices.

9 (a) Conflict of interest – No elected official, appointed officer, or employee of the city or
10 any agency or political entity to which this charter applies shall knowingly:

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

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

19 (3) Disclose confidential information concerning the property, government, or affairs of
20 the governmental body by which that person is engaged without proper legal
21 authorization or use such information to advance the financial or other private interest of
22 that person or others;

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

29 (5) Represent other private interests in any action or proceeding against this city or any
30 portion of its government; or

31 (6) Vote or otherwise participate in the negotiation or in the making of any contract with
32 any business or entity in which that person has a financial interest.

1 (b) Disclosure – Any elected official, appointed officer, or employee who shall have any
2 private financial interest, directly or indirectly, in any contract or matter pending before or
3 within any department of the city shall disclose such private interest to the city council. The
4 mayor or any councilmember who has a private interest in any matter pending before the city
5 council shall disclose such private interest and such disclosure shall be entered on the records
6 of the city council, and that person shall disqualify himself or herself from participating in
7 any decision or vote relating thereto. Any elected official, appointed officer, or employee
8 of any agency or political entity to which this charter applies who shall have any private
9 financial interest, directly or indirectly, in any contract or matter pending before or within
10 such entity shall disclose such private interest to the governing body of such agency or entity.

11 (c) Use of public property – No elected official, appointed officer, or employee of the city
12 or any agency or entity to which this charter applies shall use property owned by such
13 governmental entity for personal benefit, convenience, or profit except in accordance with
14 policies promulgated by the city council or the governing body of such agency or entity.

15 (d) Contracts voidable and rescindable – Any violation of this section which occurs with the
16 knowledge, express or implied, of a party to a contract or sale shall render such contract or
17 sale voidable at the option of the city council.

18 (e) Ineligibility of elected official – Except where authorized by law, no councilmember nor
19 the mayor shall hold any other elective or compensated appointive office in the city or
20 otherwise be employed by the government or any agency thereof during the term for which
21 that person was elected.

22 (f) Political activities of certain officers and employees – No appointed officer and no
23 employee of the city shall continue in such employment upon qualifying as a candidate for
24 nomination or election to any public office.

25 (g) Penalties for violation – Any city officer or employee who:

26 (1) Knowingly conceals such financial interest; or

27 (2) Knowingly violates any of the requirements of this section

28 shall be guilty of malfeasance in office or position and shall be deemed to have forfeited that
29 person's office or position. Any officer or employee of the city who shall forfeit that
30 person's office or position as described in paragraph (1) of this subsection shall be ineligible
31 for appointment or election to or employment in a position in the city government for a
32 period of three years thereafter.

SECTION 2.15.

Inquiries and investigations.

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

SECTION 2.16.

General power and authority of the city council.

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

SECTION 2.17.

Organizational meetings.

The city council shall hold an organizational meeting on the first Tuesday in January of 2005. The meeting shall be called to order by the city attorney 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 the United States of America."

SECTION 2.18.

Meetings.

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

(b) Special meetings of the city council may be held on call of the mayor or four members of the city council. Notice of such special meeting shall be served on all other members personally, or by telephone personally, 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

1 councilmember's presence. Only the business stated in the call may be transacted at the
2 special meeting.

3 (c) All meetings of the city council shall be public to the extent required by law and notice
4 to the public of special meetings shall be given as required by law.

5 **SECTION 2.19.**

6 Rules of procedure.

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

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

13 **SECTION 2.20.**

14 Quorum; voting.

15 (a) Four councilmembers or three councilmembers and the mayor shall constitute a quorum
16 and shall be authorized to transact business of the city council. Voting on the adoption of
17 ordinances shall be by voice vote and the vote shall be recorded in the journal, but any
18 member of the city council shall have the right to request a roll-call vote and such vote shall
19 be recorded in the journal. Except as otherwise provided in this charter, the affirmative vote
20 of four councilmembers shall be required for the adoption of any ordinance, resolution, or
21 motion.

22 (b) The mayor, or in his or her absence the vice mayor, shall not be entitled to vote on any
23 question except to break a tie.

24 (c) In the event vacancies in office result in less than a quorum of councilmembers holding
25 office, then the remaining councilmembers in office shall constitute a quorum and shall be
26 authorized to transact business of the city council. A vote of a majority of the remaining
27 councilmembers shall be required for the adoption of any ordinance, resolution, or motion.

28 **SECTION 2.21.**

29 Ordinance form; procedures.

30 (a) Every proposed ordinance should be introduced in writing and in the form required for
31 final adoption. No ordinance shall contain a subject which is not expressed in its title. The

1 enacting clause shall be "The City Council of Omega hereby ordains..." and every ordinance
2 shall so begin.

3 (b) An ordinance may be introduced by any councilmember and be read at a regular or
4 special meeting of the city council. Ordinances shall be considered and adopted or rejected
5 by the city council in accordance with the rules which it shall establish. Upon introduction
6 of any ordinance, the clerk shall as soon as possible distribute a copy to the mayor and each
7 councilmember and shall file a reasonable number of copies in the office of the clerk and at
8 such other public places as the city council may designate.

9 **SECTION 2.22.**

10 Action requiring an ordinance.

11 Acts of the city council which have the force and effect of law shall be enacted by ordinance.

12 **SECTION 2.23.**

13 Emergencies.

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

SECTION 2.24.

Codes of technical regulations.

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

(1) The requirements of subsection (b) of Section 2.21 of this charter for distribution and filing of copies of the ordinance shall be construed to include copies of any code of technical regulations, as well as the adopting ordinance; and

(2) A copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the city clerk pursuant to Section 2.25 of this charter.

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

SECTION 2.25.

Signing; authenticating; recording; codification; printing.

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

(b) The city council shall provide for the preparation of a general codification of all the ordinances of the city having the force and effect of law. The general codification shall be adopted by the city council by ordinance and shall be published promptly, together with all amendments thereto and such codes of technical regulations and other rules and regulations as the city council may specify. This compilation shall be known and cited officially as "The Code of the City of Omega, 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 manager.

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

1 employment, departments, and agencies of the city as necessary for the proper administration
2 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 appointed officers and directors of departments shall receive such compensation as
7 prescribed by the budget resolution or ordinance establishing position classifications and pay
8 plans.

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

13 (e) The city council may appoint, suspend, or remove all nonelected officers and employees
14 of the city except the city attorney and city auditor and may consolidate or combine offices,
15 positions, departments, or units of the city. The city council may conduct such inquiries into
16 the operation of the city government and the conduct of the affairs of the city as it may deem
17 necessary.

18 **SECTION 3.11.**

19 **Boards, commissions, and authorities.**

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

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

28 (c) The city council by ordinance may provide for the compensation and reimbursement for
29 actual and necessary expenses of the members of any board, commission, or authority. The
30 city council may also by ordinance provide for liability coverage for all members of any
31 board, commission, or authority while such members are conducting official business of the
32 city.

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

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

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

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

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

18

SECTION 3.12.

19

City attorney.

20 The city council shall appoint a city attorney, together with such assistant city attorneys as
21 may be authorized, and shall provide for the payment of such attorney or attorneys for
22 services rendered to the city. The city attorney shall be responsible for representing and
23 defending the city in all litigation in which the city is a party; may be the prosecuting officer
24 in the municipal court; shall attend the meetings of the city council as directed; shall advise
25 the city council and other officers and employees of the city concerning legal aspects of the
26 city's affairs; shall administer the oath of office to each member of the city council, including
27 the mayor; and shall draft or review every ordinance submitted to the city council and, as a
28 matter of course, shall sign each such ordinance indicating such drafting or review; and shall
29 perform such other duties as may be required of the city attorney by virtue of such person's
30 position as city attorney.

SECTION 3.13.

City clerk.

The city council shall appoint a city clerk who shall:

- (1) Be responsible for keeping and preserving the city seal and all records of the city council;
- (2) Attend all meetings of the city council and keep minutes of the proceedings at such meetings; and
- (3) Perform such other duties as may be required by the city council.

SECTION 3.14.

City finance director.

The city council may appoint a finance director to collect all taxes, license fees, and other moneys belonging to the city subject to the provisions of this charter and the ordinances of the city and to enforce all laws of Georgia relating to the collection of delinquent taxes and sale or foreclosure for nonpayment of taxes by the city. The finance director shall also be responsible for the general duties of a treasurer and fiscal officer.

SECTION 3.15.

City auditor.

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

SECTION 3.16.

Position classification and pay plans.

The city council shall be responsible for the preparation of a position classification and pay plan. Such plan may apply to all employees of the city and any of its agencies, departments, boards, commissions, or authorities. When a pay plan has been adopted, the city council shall not increase or decrease the salary range applicable to any position except by amendment of such pay plan. For purposes of this section, elected and appointed city officials are not city employees. The city attorney and city auditor shall receive such compensation as provided by the authority which appoints them to their respective offices.

SECTION 4.12.

Convening.

The municipal court shall be convened at regular intervals as necessary and prudent.

SECTION 4.13.

Jurisdiction; powers.

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

(b) The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$1,000.00 or six months in jail, or by one or both or any part thereof, in the discretion of the judge of the municipal court.

(c) The municipal court may fix punishment for any violation of an ordinance within its jurisdiction by a fine not to exceed \$1,000.00; by imprisonment not to exceed 12 months; by work on work gangs on the streets of the city or on such public works as the work gang may be employed upon, not to exceed six months; or by any one or more of these punishments in the discretion of the judge of the municipal court.

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

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

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

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

8 (i) The municipal court is specifically vested with all the jurisdiction and powers throughout
 9 the geographic area of this city granted by law to municipal courts and particularly by such
 10 laws as authorize the abatement of nuisances and prosecution of traffic violations.

11 **SECTION 4.14.**

12 Certiorari.

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

17 **SECTION 4.15.**

18 Rules for court.

19 With the approval of the city council, and where appropriate by ordinance, the judge shall
 20 have full power and authority to make reasonable rules and regulations necessary and proper
 21 to secure the efficient and successful administration of the municipal court.

22 **ARTICLE V**

23 **ELECTIONS AND REMOVAL**

24 **SECTION 5.10.**

25 Applicability of general law.

26 All primaries and elections shall be held and conducted in accordance with O.C.G.A. 21-2-1
 27 et seq., the "Georgia Election Code," as now or hereafter amended.

SECTION 5.11.

Election of the city council and mayor.

(a) There shall be a municipal general election biennially on the Tuesday next following the first Monday in November.

(b) There shall be elected the mayor and one councilmember at one election and at every other election thereafter. The remaining city council seats shall be filled at the election alternating with the first election so that a continuing body is created as provided for in the initial election held pursuant to Section 7.12 of this charter. Persons elected to such offices shall take office and begin their terms of office on the first day of January immediately following their election.

SECTION 5.12.

Nonpartisan elections.

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

SECTION 5.13.

Election by majority vote.

The mayor and city council shall be elected by a majority vote of the votes cast for each position.

SECTION 5.14.

Vacancies.

In the event that the office of mayor or councilmember shall become vacant for any cause whatsoever, the remaining members shall immediately proceed by election to fill the vacancy, and any officer so elected by the remaining members of council shall fill the unexpired term of the officer or officers in whose place he or she was elected, in the same manner and under the same restrictions and responsibilities as though he or she had been elected at a general election.

1 ordinance may provide for the payment of these taxes by installments or in one lump sum,
2 as well as authorize voluntary payment of taxes prior to the time when due.

3 **SECTION 6.12.**

4 Occupation and business taxes.

5 The city council by ordinance shall have the power to levy such occupation or business taxes
6 as are not denied by law. Such taxes may be levied on both individuals and corporations who
7 transact business in this city or who practice or offer to practice any profession or calling in
8 this city to the extent such persons have a constitutionally sufficient nexus to this city to be
9 so taxed. The city council may classify businesses, occupations, professions, or callings for
10 the purpose of such taxation in any way which may be lawful and may compel the payment
11 of such taxes as provided in Section 6.18 of this charter.

12 **SECTION 6.13.**

13 Licenses; permits; fees.

14 The city council by ordinance shall have the power to require any individuals or corporations
15 who transact business in this city or who practice or offer to practice any profession or
16 calling in this city to obtain a license or permit for such activity from the city and pay a
17 reasonable fee for such license or permit where such activities are not now regulated by
18 general law in such a way as to preclude city regulation. Such fees may reflect the total cost
19 to the city of regulating the activity and, if unpaid, shall be collected as provided in Section
20 6.18 of this charter. The city council by ordinance may establish reasonable requirements
21 for obtaining or keeping such licenses as the public health, safety, and welfare necessitate.

22 **SECTION 6.14.**

23 Franchises.

24 The city council shall have the power to grant franchises for the use of this city's streets and
25 alleys for the purposes of railroads, street railways, telephone companies, electric companies,
26 cable television, gas companies, transportation companies, and other similar organizations.
27 The city council shall determine the duration, terms, whether the same shall be exclusive or
28 nonexclusive, and the consideration for such franchises; provided, however, no franchise
29 shall be granted for a period in excess of 35 years and no franchise shall be granted unless
30 the city receives just and adequate compensation therefor. The city council shall provide for
31 the registration of all franchises with the city clerk in a registration book kept by the city

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

3 **SECTION 6.15.**

4 Service charges.

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

10 **SECTION 6.16.**

11 Special assessments.

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

17 **SECTION 6.17.**

18 Construction; other taxes.

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

22 **SECTION 6.18.**

23 Collection of delinquent taxes and fees.

24 The city council by ordinance may provide generally for the collection of delinquent taxes,
25 fees, or other revenue due the city under Sections 6.10 through 6.17 of this charter by
26 whatever reasonable means as are not precluded by law. This shall include providing for the
27 dates when the taxes or fees are due; late penalties or interest; issuance and execution of
28 fi.fas.; creation and priority of liens; making delinquent taxes and fees personal debts of the

1 persons required to pay the taxes or fees imposed; revoking city licenses for failure to pay
2 any city taxes or fees; and providing for the assignment or transfer of tax executions.

3 **SECTION 6.19.**

4 General obligation bonds.

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

9 **SECTION 6.20.**

10 Revenue bonds.

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

14 **SECTION 6.21.**

15 Short-term loans.

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

18 **SECTION 6.22.**

19 Fiscal year.

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

23 **SECTION 6.23.**

24 Budget resolution.

25 The city council shall provide a resolution on the procedures and requirements for the
26 preparation and execution of an annual operating budget, a capital improvement program,
27 and a capital budget, including requirements as to the scope, content, and form of such

1 budgets and programs. The city council shall also comply with the budgeting and auditing
2 provisions of Chapter 81 of Title 36 of the O.C.G.A.

3 **SECTION 6.24.**

4 Operating budget.

5 On or before a date fixed by the city council but not later than 30 days prior to the beginning
6 of each fiscal year, the city council shall review a proposed operating budget for the ensuing
7 fiscal year.

8 **SECTION 6.25.**

9 Adoption.

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

14 (b) The city council shall by ordinance adopt the final operating budget for the ensuing fiscal
15 year not later than January of each year. If the city council falls to adopt the budget by said
16 date, the amounts appropriated for operation for the then current fiscal year shall be deemed
17 adopted for the ensuing fiscal year on a month-to-month basis, with all items prorated
18 accordingly, until such time as the city council adopts a budget for the ensuing fiscal year.
19 Adoption of the budget shall take the form of an appropriations ordinance setting out the
20 estimated revenues in detail by sources and making appropriations according to fund and by
21 organizational unit, purpose, or activity as set out in the budget preparation resolution
22 adopted pursuant to Section 6.23 of this charter.

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

27 **SECTION 6.26.**

28 Levy of taxes.

29 Following adoption of the operating budget, the city council shall levy by ordinance such
30 taxes as are necessary. The taxes and tax rates set by such ordinance shall be such that
31 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 expense of the general government of this city.

4 **SECTION 6.27.**

5 Changes in appropriations.

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

10 **SECTION 6.28.**

11 Audits.

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

17 **SECTION 6.29.**

18 Procurement and property management.

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

- 20 (1) It is in writing;
 21 (2) It is drawn or submitted and reviewed by the city attorney and, as a matter of course,
 22 is signed by the city attorney to indicate such drafting or review; and
 23 (3) It is made or authorized by the city council and such approval is entered in the city
 24 council journal of proceedings pursuant to Section 2.19 of this charter.

25 **SECTION 6.30.**

26 Purchasing.

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

SECTION 7.12.

First election under this charter; existing personnel and officers.

(a) In order to establish continuity, those elected officials serving as mayor and councilmembers at the time of the effective date of this charter shall continue to serve for the balance of their current terms.

(b) Except as specifically provided otherwise by this charter, all personnel and officers of this city and their rights, privileges, and powers shall continue beyond the time this charter takes effect for a period of 60 days before or during which time the existing city council shall pass a transition ordinance detailing the changes in personnel and appointed officers required or desired and arranging such titles, rights, privileges, and powers as may be required or desired to allow a reasonable transition.

SECTION 7.13.

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 city agencies, personnel, or offices as may be provided by the city council.

SECTION 7.14.

Definitions and construction.

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

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

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

SECTION 7.15.

Specific repealer.

An Act entitled "An Act to provide a new charter for the Town of Omega," approved July 30, 1912 (Ga. L. 1912, p. 1178), and all amendatory Acts thereto are repealed.

