

Senate Bill 348

By: Senators Jones of the 10th and Starr of the 44th

A BILL TO BE ENTITLED
AN ACT

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

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

1 (b) The powers of this city shall be construed liberally in favor of the city. The specific
2 mention or failure to mention particular powers shall not be construed as limiting in any way
3 the powers of this city. These powers shall include, but not be limited to, the following:

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

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

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

16 (4) Business regulation and taxation. To levy and to provide for collection of regulatory
17 fees and taxes on privileges, occupations, trades, and professions as authorized by Title
18 48 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted; to
19 permit and regulate the same; to provide for the manner and method of payment of such
20 regulatory fees and taxes; and to revoke such permits after due process for failure to pay
21 any city taxes or fees;

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

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

28 (7) Emergencies. To establish procedures for determining and proclaiming that an
29 emergency situation exists within or outside the city and to make and carry out all
30 reasonable provisions deemed necessary to deal with or meet such an emergency for the
31 protection, safety, health, or well-being of the citizens of the city;

32 (8) Environmental protection. To protect and preserve the natural resources,
33 environment, and vital areas of the state through the preservation and improvement of air
34 quality, the restoration and maintenance of water resources, the control of erosion and
35 sedimentation, the management of solid and hazardous waste, and other necessary actions
36 for the protection of the environment;

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

5 (10) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection
6 and disposal and other sanitary service charge, tax, or fee for such services as may be
7 necessary in the operation of the city from all individuals, firms, and corporations
8 residing in or doing business in the city benefiting from such services; to enforce the
9 payment of such charges, taxes, or fees; and to provide for the manner and method of
10 collecting such service charges;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (35) Special areas of public regulation. To regulate or prohibit junk dealers, pawn shops,
32 the manufacture, sale, or transportation of any intoxicating liquors, alcoholic beverages,
33 and the use of firearms; to regulate the transportation, storage, and use of combustible,
34 explosive, and inflammable materials, the use of lighting and heating equipment, and any
35 other business or situation which may be dangerous to persons or property; to regulate
36 and control the conduct of peddlers and itinerant traders, theatrical performances,

1 exhibitions, and shows of any kind, by taxation or otherwise; and to license, tax, regulate,
2 or prohibit professional fortunetelling, palmistry, adult bookstores, and massage parlors;
3 (36) Special assessments. To levy and provide for the collection of special assessments
4 to cover the costs for any public improvements;
5 (37) Taxes: ad valorem. To levy and provide for the assessment, valuation, revaluation,
6 and collection of taxes on all property subject to taxation;
7 (38) Taxes: other. To levy and collect such other taxes as may be allowed now or in the
8 future by law;
9 (39) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the
10 number of such vehicles; to require the operators thereof to be licensed; to require public
11 liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to
12 regulate the parking of such vehicles;
13 (40) Urban redevelopment. To organize and operate an urban redevelopment program;
14 and
15 (41) Other powers. To exercise and enjoy all other powers, functions, rights, privileges,
16 and immunities necessary or desirable to promote or protect the safety, health, peace,
17 security, good order, comfort, convenience, or general welfare of the city and its
18 inhabitants; and to exercise all implied powers necessary or desirable to carry into
19 execution all powers granted in this charter as fully and completely as if such powers
20 were fully stated in this charter; and to exercise all powers now or in the future authorized
21 to be exercised by other municipal governments under other laws of the State of Georgia;
22 and no listing of particular powers in this charter shall be held to be exclusive of others,
23 nor restrictive of general words and phrases granting powers, but shall be held to be in
24 addition to such powers unless expressly prohibited to municipalities under the
25 Constitution or applicable laws of the State of Georgia.

26 **SECTION 1.13.**

27 Exercise of powers.

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

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 Holding other office;
9 voting when personally interested.

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

12 (b) Except as authorized by law, no councilmember nor the mayor shall hold any other city
13 office or city employment during the term for which that person was elected.

14 (c) No councilmember nor the mayor shall vote upon, sign, or veto any ordinance,
15 resolution, contract, or other matter in which that person is financially interested.

16 **SECTION 2.15.**

17 Inquiries and investigations.

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

24 **SECTION 2.16.**

25 General power and authority of the city council.

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

SECTION 2.17.

Organizational meetings.

The city council shall hold an organizational meeting on the first business day in January next following their election. 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 the United States of America."

SECTION 2.18.

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 three 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 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 fully as is reasonably possible 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 2.19.

Rules of procedure.

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

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

4 **SECTION 2.20.**

5 Quorum; voting.

6 Three members of the city council shall constitute a quorum and shall be authorized to
7 transact business of the city council. Voting on the adoption of ordinances shall be by voice
8 vote and the vote shall be recorded in the journal, but any member of the city council shall
9 have the right to request a roll-call vote and such vote shall be recorded in the journal. Except
10 as otherwise provided in this charter, the affirmative vote of three members of the city
11 council shall be required for the adoption of any ordinance, resolution, or motion. An
12 abstention shall be counted as an affirmative vote.

13 **SECTION 2.21.**

14 Ordinance form; procedures.

15 (a) Every proposed ordinance should be introduced in writing and in the form required for
16 final adoption. No ordinance shall contain a subject which is not expressed in its title. The
17 enacting clause shall be "It is hereby ordained by the governing authority of the City of
18 Fairview..." and every ordinance shall so begin.

19 (b) An ordinance may be introduced by any member of the city council and be read at a
20 regular or special meeting of the city council. Ordinances shall be considered and adopted
21 or rejected by the city council in accordance with the rules which it shall establish; provided,
22 however, an ordinance shall not be adopted the same day it is introduced, except for
23 emergency ordinances provided for in Section 2.23 of this charter. Upon introduction of any
24 ordinance, the clerk shall as soon as possible distribute a copy to the mayor and to each
25 councilmember and shall file a reasonable number of copies in the office of the clerk and at
26 such other public places as the city council may designate.

27 **SECTION 2.22.**

28 Action requiring an ordinance.

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

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 Fairview, 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 2.26.

Election of mayor; forfeiture; compensation.

The mayor shall be elected and shall serve for a term of four years and until the mayor's 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 the mayor's service. The mayor shall forfeit the office of mayor 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 **SECTION 2.27.**

2 Mayor pro tempore.

3 By a majority vote, the councilmembers shall elect a councilmember to serve as mayor pro
4 tempore. The mayor pro tempore shall assume the duties and powers of the mayor during the
5 mayor's physical or mental disability or absence. Any such disability or absence shall be
6 declared by a majority vote of the councilmembers. The mayor pro tempore shall sign all
7 contracts and ordinances in which the mayor has a disqualifying financial interest as
8 provided in Section 2.14 of this charter.

9 **SECTION 2.28.**

10 Powers and duties of mayor.

11 The mayor shall:

- 12 (1) Preside at all meetings of the city council;
- 13 (2) Be the head of the city for the purpose of service of process and for ceremonial
14 purposes and be the official spokesperson for the city and the chief advocate of policy;
- 15 (3) Have the power to administer oaths and to take affidavits;
- 16 (4) Sign as a matter of course on behalf of the city all written and approved contracts,
17 ordinances, and other instruments executed by the city which by law are required to be
18 in writing;
- 19 (5) Prepare and submit to the city council a recommended annual operating budget and
20 recommended capital budget; and
- 21 (6) Fulfill such other executive and administrative duties as the city council shall by
22 ordinance establish.

23 **SECTION 2.29.**

24 Submission of ordinances to the mayor; veto power.

25 (a) Every ordinance adopted by the councilmembers shall be presented promptly by the city
26 clerk to the mayor after its adoption.

27 (b) The mayor, within ten calendar days of receipt of an ordinance, shall return it to the city
28 clerk with or without the mayor's approval or with the mayor's disapproval. If the ordinance
29 has been approved by the mayor, it shall become law upon its return to the city clerk; if the
30 ordinance is neither approved nor disapproved, it shall become law at 12:00 Noon on the
31 tenth calendar day after its adoption; if the ordinance is disapproved, the mayor shall submit
32 to the councilmembers through the city clerk a written statement of the reasons for the veto.

1 The city clerk shall record upon the ordinance the date of its delivery to and receipt from the
2 mayor.

3 (c) Ordinances vetoed by the mayor shall be presented by the city clerk to the
4 councilmembers at their next meeting. If the councilmembers then or at their next meeting
5 adopt the ordinance by an affirmative vote of three members, it shall become law.

6 (d) The mayor may disapprove or reduce any item or items of appropriation in any
7 ordinance. The approved part or parts of any ordinance making appropriations shall become
8 law, and the part or parts disapproved shall not become law unless subsequently passed by
9 the councilmembers over the mayor's veto as provided in this section. The reduced part or
10 parts shall be presented to the councilmembers as though disapproved and shall not become
11 law unless overridden by the councilmembers as provided in subsection (c) of this section.

12 ARTICLE III

13 ADMINISTRATIVE AFFAIRS

14 SECTION 3.10.

15 Administrative and service departments.

16 (a) Except as otherwise provided in this charter, the city council by ordinance shall prescribe
17 the functions or duties and establish, abolish, alter, consolidate, or leave vacant all
18 nonelective offices, positions of employment, departments, and agencies of the city as
19 necessary for the proper administration of the affairs and government of this city.

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

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

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

29 (e) All appointed officers and directors under the supervision of the mayor shall be
30 nominated by the mayor with confirmation of appointment by the city council. All appointed
31 officers and directors shall be employees at will and subject to removal or suspension at any
32 time by the mayor unless otherwise provided by law or ordinance.

SECTION 3.11.

Boards, commissions, and authorities.

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

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

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

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

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

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

(g) All members of boards, commissions, or authorities of the city serve at will and may be removed at any time by the city council unless otherwise provided by law.

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

SECTION 3.12.

City attorney.

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

SECTION 3.13.

City clerk and city manager.

The mayor shall appoint a city clerk subject to confirmation by the city council who shall not be a councilmember. The city clerk shall be custodian of the official city seal and city records; maintain city council records required by this charter; and perform such other duties as may be required by the city council. The city council may by ordinance create the position of city manager and provide for the powers and duties of that office.

SECTION 3.14.

Position classification and pay plans.

The mayor shall be responsible for the preparation of a position classification and pay plan which shall be submitted to the city council for approval. 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, all elected and appointed city officials are not city employees.

SECTION 3.15.

Personnel policies.

All employees serve at will and may be removed from office at any time unless otherwise provided by ordinance.

1 (c) The municipal court may fix punishment for offenses within its jurisdiction not
2 exceeding a fine of \$200.00 or imprisonment for ten days or both such fine and imprisonment
3 or may fix punishment by fine, imprisonment, or alternative sentencing, as now or hereafter
4 provided by law.

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

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

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

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

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

30 **SECTION 4.14.**

31 **Certiorari.**

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

SECTION 4.15.

Rules for court.

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

ARTICLE V**ELECTIONS AND REMOVAL****SECTION 5.10.**

Applicability of general law.

All primaries and elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended. Seats on the city council shall be designated as Posts 1 through 5 and a candidate for city council shall designate by number the post for which he or she is running.

SECTION 5.11.

Regular elections; time for holding.

(a) The initial election for mayor and councilmembers shall be held on the Tuesday after the first Monday in November of 2006. At such initial election the councilmembers elected to Posts 1, 2, and 3 shall be elected for terms of one year and the councilmembers elected to Posts 4 and 5 and the mayor shall be elected for terms of three years. Thereafter all terms of office shall be for four years.

(b) There shall be a municipal general election biennially in odd-numbered years on the Tuesday next following the first Monday in November in 2007 and thereafter.

SECTION 5.12.

Nonpartisan elections.

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

SECTION 5.13.

Election by majority vote.

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

SECTION 5.14.

Special elections; vacancies.

In the event that the office of mayor or councilmember shall become vacant as provided in Section 2.12 of this charter, the city council or those remaining shall order a special election to fill the balance of the unexpired term of such official; provided, however, if such vacancy occurs within 12 months of the expiration of the term of that office, the city council or those members remaining shall appoint a successor for the remainder of the term. In all other respects, the special election shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

SECTION 5.15.

Other provisions.

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

SECTION 5.16.

Removal of officers.

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

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

(1) Following a hearing at which an impartial panel shall render a decision. In the event an elected officer is sought to be removed by the action of the city council, such officer shall be entitled to a written notice specifying the ground or grounds for removal and to a public hearing which shall be held not less than ten days after the service of such written notice. The city council shall provide by ordinance for the manner in which such

1 hearings shall be held. Any elected officer sought to be removed from office as provided
 2 in this section shall have the right of appeal from the decision of the city council to the
 3 Superior Court of Henry County. Such appeal shall be governed by the same rules as
 4 govern appeals to the superior court from the probate court; or

5 (2) By an order of the Superior Court of Henry County following a hearing on a
 6 complaint seeking such removal brought by any resident of the City of Fairview.

7 **ARTICLE VI**

8 **FINANCE**

9 **SECTION 6.10.**

10 **Property tax.**

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

17 **SECTION 6.11.**

18 **Millage rate; due dates; payment methods.**

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

23 **SECTION 6.12.**

24 **Occupation and business taxes.**

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

SECTION 6.16.

Special assessments.

The city council by ordinance shall have the power to assess 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 reasonable. If unpaid, such charges shall be collected as provided in Section 6.18 of this charter.

SECTION 6.17.

Construction; other taxes.

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 6.18.

Collection of delinquent taxes and fees.

The city council by ordinance may provide generally for the collection of delinquent taxes, fees, or other revenue due the city under Sections 6.10 through 6.17 of this charter by whatever reasonable means as are not precluded by law. This shall include providing for the dates when the taxes or fees are due; late penalties or interest; issuance and execution of fi. fas.; creation and priority of liens; making delinquent taxes and fees 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 6.19.

General obligation bonds.

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

SECTION 6.20.

Revenue bonds.

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

SECTION 6.21.

Short-term loans.

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

SECTION 6.22.

Lease-purchase contracts.

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

SECTION 6.23.

Fiscal year.

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

SECTION 6.24.

Budget ordinance.

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

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

3 **SECTION 6.25.**

4 Operating budget.

5 On or before a date fixed by the city council but not later than 60 days prior to the beginning
6 of each fiscal year, the mayor shall submit to the city council a proposed operating budget
7 for the ensuing fiscal year. The budget shall be accompanied by a message from the mayor
8 containing a statement of the general fiscal policies of the city, the important features of the
9 budget, explanations of major changes recommended for the next fiscal year, a general
10 summary of the budget, and other pertinent comments and information. The operating budget
11 and the capital budget provided for in Section 6.29 of this charter, the budget message, and
12 all supporting documents shall be filed in the office of the city clerk and shall be open to
13 public inspection.

14 **SECTION 6.26.**

15 Action by city council on budget.

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

21 (b) The city council by ordinance shall adopt the final operating budget for the ensuing fiscal
22 year not later than the end of the prior fiscal year. If the city council fails to adopt the budget
23 by said date, the amounts appropriated for operation for the then current fiscal year shall be
24 deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items
25 prorated accordingly, until such time as the city council adopts a budget for the ensuing fiscal
26 year. Adoption of the budget shall take the form of an appropriations ordinance setting out
27 the estimated revenues in detail by sources and making appropriations according to fund and
28 by organizational unit, purpose, or activity as set out in the budget preparation ordinance
29 adopted pursuant to Section 6.24 of this charter.

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

SECTION 6.27.

Levy of taxes.

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

SECTION 6.28.

Changes in appropriations.

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

SECTION 6.29.

Capital improvements.

(a) On or before the date fixed by the city council, but not later than 60 days prior to the beginning of each fiscal year, the mayor shall submit to the city council a proposed capital improvements plan with a recommended capital budget containing the means of financing the improvements proposed for the ensuing fiscal year. The city council shall have power to accept, with or without amendments, or reject the proposed plan and budget. The city council shall not authorize an expenditure for the construction of any building, structure, work, or improvement unless the appropriations for such project are included in the capital budget, except to meet a public emergency as provided in Section 2.23 of this charter.

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

SECTION 6.30.

Audits.

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

SECTION 6.31.

Procurement and property management.

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

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

SECTION 6.32.

Purchasing.

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

SECTION 6.33.

Sale and lease of 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 cut off or separated by such work from a larger tract or boundary of land owned by the city, the city council may authorize the mayor to sell

1 and convey said cut-off or separated parcel or tract of land to an abutting or adjoining
 2 property owner or owners where such sale and conveyance facilitates the highest and best
 3 use of the abutting owner's property. Included in the sales contract shall be a provision for
 4 the rights of way of said street, avenue, alley, or public place. Each abutting property owner
 5 shall be notified of the availability of the property and given the opportunity to purchase said
 6 property under such terms and conditions as set out by ordinance. All deeds and conveyances
 7 heretofore and hereafter so executed and delivered shall convey all title and interest the city
 8 has in such property, notwithstanding the fact that no public sale after advertisement was or
 9 is hereafter made.

10 **ARTICLE VII**

11 **GENERAL PROVISIONS**

12 **SECTION 7.10.**

13 Bonds for officials.

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

17 **SECTION 7.11.**

18 Construction and definitions.

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

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

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

24 (d) Except as specifically provided otherwise by this charter, the term:

25 (1) "City council" means the members of the city council and the mayor.

26 (2) "Councilmember" means a member of the city council other than the mayor.

27 **SECTION 7.12.**

28 Referendum and initial election.

29 (a) Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election
 30 superintendent of Henry County shall call a special election for the purpose of submitting this
 31 Act to the qualified voters of the proposed City of Fairview for approval or rejection. The

1 superintendent shall set the date of such election for the date of the 2006 general primary
 2 election. The superintendent shall issue the call for such election at least 30 days prior to the
 3 date thereof. The superintendent shall cause the date and purpose of the election to be
 4 published once a week for two weeks immediately preceding the date thereof in the official
 5 organ of Henry County. The ballot shall have written or printed thereon the words:

6 "() YES Shall the Act incorporating the City of Fairview in Henry County according
 7 () NO to the charter contained in the Act be approved?"

8 All persons desiring to vote for approval of the Act shall vote "Yes," and those persons
 9 desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes
 10 cast on such question are for approval of the Act, it shall become of full force and effect,
 11 otherwise it shall be void and of no force and effect. The initial expense of such election shall
 12 be borne by Henry County. Within two years after the elections if the incorporation is
 13 approved, the City of Fairview shall reimburse Henry County for the actual cost of printing
 14 and personnel services for such election and for the initial election of the mayor and
 15 members of the city council. It shall be the duty of the superintendent to hold and conduct
 16 such election. It shall be his or her further duty to certify the result thereof to the Secretary
 17 of State.

18 (b) For the purposes of the referendum election provided for in this section and for the
 19 purposes of the election to be held on the Tuesday after the first Monday in November, 2006,
 20 the qualified electors of the City of Fairview shall be those qualified electors of Henry
 21 County residing within the corporate limits of the City of Fairview as described by Section
 22 1.11 of this charter. At subsequent municipal elections, the qualified electors of the City of
 23 Fairview shall be determined pursuant to the authority of Chapter 2 of Title 21 of the
 24 O.C.G.A., known as the "Georgia Election Code."

25 (c) Only for the purposes of holding and conducting the referendum election provided for
 26 by this section and holding and conducting the election of the City of Fairview to be held on
 27 the Tuesday after the first Monday in November, 2006, the election superintendent of Henry
 28 County is vested with the powers and duties of the election superintendent of the City of
 29 Fairview and the powers and duties of the governing authority of the City of Fairview.

30 **SECTION 7.13.**

31 Effective dates.

32 The provisions of this Act necessary for the election provided in Section 7.12 of this charter
 33 shall become effective as soon as this Act is approved by the Governor or becomes law
 34 without such approval. The provisions of this Act necessary for the election to be held on the
 35 Tuesday after the first Monday in November, 2006, shall be effective upon the certification

1 of the results of the referendum election provided for by Section 7.12 of this charter, if this
2 Act is approved at such referendum election.

3 **SECTION 7.14.**

4 Severability.

5 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
6 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
7 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full
8 force and effect, as if the section, subsection, sentence, clause, or phrase so declared or
9 adjudged invalid or unconstitutional were not originally a part hereof. The General Assembly
10 hereby declares that it would have passed the remaining parts of this Act if it had known that
11 such part or parts hereof would be declared or adjudged invalid or unconstitutional.

12 **SECTION 7.15.**

13 Repealer.

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

1 CERTIFICATE AS TO MINIMUM STANDARDS
 2 FOR INCORPORATION OF A NEW MUNICIPAL CORPORATION

3 I, Senator Emanuel Jones, Georgia State Senator from the 10th District and the author of this
 4 bill introduced at the 2005 Session of the General Assembly of Georgia, which grants an
 5 original municipal charter to the City of Fairview, do hereby certify that this bill is in
 6 compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A.
 7 This certificate is executed to conform to the requirements of Code Section 36-31-5 of the
 8 O.C.G.A.

9 So certified, this _____ day of _____, 20__.

10 _____
 11 Senator, 10th District
 12 Georgia State Senate