

House Bill 676 (AS PASSED HOUSE AND SENATE)

By: Representative Epps of the 128th

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the City of Warm Springs; to repeal the existing charter and all
2 amendatory acts thereto; to provide for incorporation, boundaries, and powers of the city; to
3 provide examples of the city's powers; to provide for a city council as the governing
4 authority of such city and the powers, duties, authority, election, terms, vacancies,
5 compensation, expenses, qualifications, prohibitions, and conflicts of interest relative to such
6 governing authority; to provide for inquiries and investigations; to provide for eminent
7 domain; to provide for organizational and regular and special meetings, rules of procedure,
8 and quorums; to provide for procedures to enact ordinances, ordinances in case of
9 emergencies, and codes of technical regulations; to provide for recording, codification, and
10 printing of ordinances; to provide for a mayor and mayor pro tem. and certain duties, powers,
11 and other matters relative thereto; to provide for administrative affairs and responsibilities;
12 to provide for boards, commissions, and authorities; to provide for a city attorney, a city
13 clerk, and other personnel and matters relating thereto; to provide for a municipal court and
14 the judges thereof and other matters relative to those judges; to provide for the municipal
15 court's jurisdiction, powers, practices, and procedures; to provide for the right of certiorari
16 and rules for the court; to provide for elections and removal of officers; to provide for
17 taxation, licenses, and fees; to provide for franchises, service charges, and special
18 assessments; to provide for collection of delinquent taxes and fees; to provide for general
19 obligation and revenue bonds, short-term loans, and lease-purchase contracts; to provide for
20 budgeting, tax levy, auditing, contracting, and purchasing procedures; to provide for the sale
21 or lease of city property and interests therein; to provide for bonds for officials; to provide
22 for prior ordinances and rules and pending matters; to provide for construction and
23 severability; to provide for other matters relative to the foregoing; to provide for an effective
24 date; to repeal specific local acts; to repeal conflicting general acts; and for other purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.13.

Examples of powers.

(a) *Animal regulations.* To regulate and license or to prohibit the keeping or running at-large of animals and fowl and to provide for the impoundment of same if in violation of any ordinance or lawful order; to provide for the disposition by sale, gift, or humane destruction of animals and fowl when not redeemed as provided by ordinance; and to provide punishment for violation of ordinances enacted hereunder.

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

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

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

(e) *Condemnation.* To condemn property, inside or outside the corporate limits of the city, for present or future use and for any corporate purpose deemed necessary by the governing authority, utilizing procedures enumerated in Title 22 of the Official Code of Georgia Annotated or such other applicable laws as are or may hereafter be enacted.

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

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

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

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

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

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

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

20 **SECTION 1.14.**

21 Exercise of powers.

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

26 **ARTICLE II**

27 **GOVERNMENT STRUCTURE**

28 **SECTION 2.10.**

29 City council creation; number; election.

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

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

3 **SECTION 2.11.**

4 City council terms and qualifications for office.

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

11 **SECTION 2.12.**

12 Vacancy; filling of vacancies.

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

16 (b) A vacancy in the office of mayor or councilmember may be filled for the remainder of
17 the unexpired term, if any, by appointment, otherwise by an election, as provided for in
18 Section 5.14 of this charter and in accordance with Titles 21 and 45 of the Official Code of
19 Georgia Annotated, or other such laws as are or may hereafter be enacted.

20 **SECTION 2.13.**

21 Compensation and expenses.

22 The mayor and councilmembers shall receive compensation and expenses for their services
23 as provided by ordinance and in accordance with Chapter 35 of Title 36 of the Official Code
24 of Georgia Annotated.

25 **SECTION 2.14.**

26 Conflicts of interest; holding other offices.

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

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

1 governmental entity for personal benefit, convenience, or profit except in accordance with
 2 policies promulgated by the city council or the governing body of such agency or entity.

3 (e) *Contracts voidable and rescindable.* Any violation of this section which occurs with the
 4 knowledge, express or implied, of a party to a contract or sale shall render said contract or
 5 sale voidable at the option of the city council.

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

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

19 (h) *Penalties for violation.*

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

23 (2) Any officer or employee of the city who shall forfeit an office or position as described
 24 in paragraph (1) above shall be ineligible for appointment or election to or employment in
 25 a position in the city government for a period of three years thereafter.

26 **SECTION 2.15.**

27 **Inquiries and investigations.**

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

1 notice to councilmembers shall not be required if the mayor and all councilmembers are
2 present when the special meeting is called. Such notice of any special meeting may be
3 waived by a councilmember in writing before or after such a meeting and attendance at the
4 meeting shall also constitute a waiver of notice on any business transacted in such
5 councilmembers presence. Only the business stated in the call may be transacted at the
6 special meeting.

7 (c) All meetings of the city council shall be public to the extent required by law and notice
8 to the public of special meetings shall be made fully as is reasonably possible as provided by
9 Code Section 50-14-1 of the Official Code of Georgia Annotated or other such applicable
10 laws as are or may hereafter be enacted.

11 **SECTION 2.20.**

12 Rules of procedure.

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

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

19 **SECTION 2.21.**

20 Quorum; voting.

21 Three councilmembers shall constitute a quorum and shall be authorized to transact business
22 of the city council. Voting of the adoption of ordinances shall be by voice vote and the vote
23 shall be recorded in the journal, but any member of the city council shall have the right to
24 request a roll call vote and such vote shall be recorded in the journal. Except as otherwise
25 provided in this charter, the affirmative vote of three councilmembers shall be required for
26 the adoption of any ordinance, resolution, or motion.

27 **SECTION 2.22.**

28 Ordinance form; procedures.

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

1 enacting clause shall be "It is hereby ordained by the governing authority of the City of
2 Warm Springs" and every ordinance 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; provided, however,
6 an ordinance shall not be adopted the same day it is introduced, except for emergency
7 ordinances provided in Section 2.24 of this charter. Upon introduction of any ordinance, the
8 clerk shall as soon as possible distribute a copy to the mayor and to each councilmember and
9 shall file a reasonable number of copies in the office of the clerk and at such other public
10 places as the city council may designate.

11 **SECTION 2.23.**

12 Action requiring an ordinance.

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

14 **SECTION 2.24.**

15 Emergencies.

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

32 (b) Such meetings shall be open to the public to the extent required by law and notice to the
33 public of emergency meetings shall be made as fully as is reasonably possible in accordance

1 with Code Section 50-14-1 of the Official Code of Georgia Annotated or such other
2 applicable laws as are or may hereafter be enacted.

3 **SECTION 2.25.**

4 Codes of technical regulations.

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

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

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

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

16 **SECTION 2.26.**

17 Signing; authenticating; recording; codification; printing.

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

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

28 (c) The city council shall cause each ordinance and each amendment to this charter to be
29 printed promptly following its adoption, and the printed ordinances and charter amendments
30 shall be made available for purchase by the public at reasonable prices to be fixed by the city
31 council. Following publication of the first code under this charter and at all times thereafter,
32 the ordinances and charter amendments shall be printed in substantially the same style as the
33 code currently in effect and shall be suitable in form for incorporation therein. The city

1 council shall make such further arrangements as deemed desirable with reproduction and
2 distribution of any current changes in or additions to codes of technical regulations and other
3 rules and regulations included in the code.

4 **SECTION 2.27.**

5 Election of mayor; forfeiture; compensation.

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

12 **SECTION 2.28.**

13 Chief executive officer.

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

17 **SECTION 2.29.**

18 Powers and duties of mayor.

19 As the chief executive of this city, the mayor shall:

- 20 (1) See that all laws and ordinances of the city are faithfully executed;
- 21 (2) Appoint and remove all officers, department heads, and employees of the city, except
22 as otherwise provided in this charter;
- 23 (3) Exercise supervision over all executive and administrative work of the city and provide
24 for the coordination of administrative activities;
- 25 (4) Prepare and submit to the city council a recommended operating budget and capital
26 budget;
- 27 (5) Submit to the city council at least once a year a statement covering the financial
28 conditions of the city and from time to time such other information as the city council may
29 request;

- 1 (6) Recommend to the city council such measures relative to the affairs of the city,
 2 improvement of the government, and promotion of the welfare of its inhabitants as the
 3 mayor may deem expedient;
- 4 (7) Call special meetings of the city council as provided for in subsection (b) of Section
 5 2.19 of this charter;
- 6 (8) Provide for an annual audit of all accounts of the city;
- 7 (9) Require any department or agency of the city to submit written reports whenever the
 8 mayor deems it expedient; and
- 9 (10) Perform such other duties as may be required by law, this charter, or by ordinance.

10 **SECTION 2.30.**

11 Mayor pro tem; selection; duties.

12 By a majority vote, the city council shall elect a councilmember to serve as mayor pro tem.
 13 The mayor pro tem. shall preside at all meetings of the city council and shall assume the
 14 duties and powers of the mayor upon the mayor's physical or mental disability or absence.
 15 The city council by a majority vote shall elect a new presiding officer from among its
 16 members for any period in which the mayor pro tem. is disabled, absent, or acting as mayor.
 17 Any such absence or disability shall be declared by majority vote of all councilmembers.

18 **ARTICLE III**

19 **ADMINISTRATIVE AFFAIRS**

20 **SECTION 3.10.**

21 Administrative and service departments.

- 22 (a) Except as otherwise provided in this charter, the city council, by ordinance, shall
 23 prescribe the functions or duties and establish, abolish, alter, consolidate, or leave vacant all
 24 nonelective offices, positions of employment, departments, and agencies of the city as
 25 necessary for the proper administration of the affairs and government of this city.
- 26 (b) Except as otherwise provided by this charter or by law, the directors of departments and
 27 other appointed officers of the city shall be appointed solely on the basis of their respective
 28 administrative and professional qualifications.
- 29 (c) All appointive officers and directors of departments shall receive such compensation as
 30 prescribed by ordinance.
- 31 (d) There shall be a director of each department or agency who shall be its principal officer.
 32 Each director shall, subject to the direction and supervision of the mayor, be responsible for

1 the administration and direction of the affairs and operations of that director's department
2 or agency.

3 (e) All appointive officers and directors under the supervision of the mayor shall be
4 nominated by the mayor with confirmation of appointment by the city council. All appointive
5 officers and directors shall be employees at will and subject to removal or suspension at any
6 time by the mayor unless otherwise provided by law or ordinance.

7 **SECTION 3.11.**

8 **Boards, commissions, and authorities.**

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

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

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

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

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

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

28 (g) All board members serve at will and may be removed at any time by a vote of three
29 members of the city council unless otherwise provided by law.

30 (h) Except as otherwise provided by this charter or by law, each board, commission, or
31 authority of the city shall elect one of its members as chairperson and one member as vice
32 chairperson, and may elect as its secretary one of its own members or may appoint as
33 secretary an employee of the city. Each board, commission, or authority of the city
34 government may establish such bylaws, rules, and regulations, not inconsistent with this
35 charter, ordinances of the city, or law, as it deems appropriate and necessary for the

1 fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and
2 regulations shall be filed with the clerk of the city.

3 **SECTION 3.12.**

4 City attorney.

5 The city council shall appoint a city attorney and shall provide for the payment of such
6 attorney for services rendered to the city. The city attorney shall be responsible for providing
7 for the representation and defense of the city in all litigation in which the city is a party; may
8 be the prosecuting officer in the municipal court; shall attend the meetings of the council as
9 directed; shall advise the city council, mayor, and other officers and employees of the city
10 concerning legal aspects of the city's affairs; and shall perform such other duties as may be
11 required by virtue of the person's position as city attorney.

12 **SECTION 3.13.**

13 City clerk.

14 The city council shall appoint a city clerk who shall not be a councilmember. The city clerk
15 shall be custodian of the official city seal and city records; maintain city council records
16 required by this charter; and perform such other duties as may be required by the city
17 council.

18 **SECTION 3.14.**

19 Personnel policies.

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

22 **ARTICLE IV**

23 **JUDICIAL BRANCH**

24 **SECTION 4.10.**

25 Municipal court; creation; name.

26 There shall be a court to be known as the Municipal Court of the City of Warm Springs.

1 event that cash or property is accepted in lieu of bond for security for the appearance of a
2 defendant at trial, and if such defendant fails to appear at the time and place fixed for trial,
3 the cash so deposited shall be on order of the judge declared forfeited to the city or the
4 property so deposited shall have a lien against it for the value forfeited which lien shall be
5 enforceable in the same manner and to the same extent as a lien for city property taxes.

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

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

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

16 **SECTION 4.13.**

17 Certiorari.

18 The right of certiorari from the decision and judgment of the municipal court shall exist in
19 all criminal cases and ordinance violation cases, and such certiorari shall be obtained under
20 the sanction of a judge of the Superior Court of Meriwether County under the laws of the
21 State of Georgia regulating the granting and issuance of writs of certiorari.

22 **SECTION 4.14.**

23 Rules for court.

24 With the approval of the city council, the judge shall have full power and authority to make
25 reasonable rules and regulations necessary and proper to secure the efficient and successful
26 administration of the municipal court; provided, however, that the city council may adopt in
27 part or in toto the rules and regulations applicable to municipal courts. The rules and
28 regulations made or adopted shall be filed with the city clerk, shall be available for public
29 inspection, and, upon request, a copy shall be furnished to all defendants in municipal court
30 proceedings at least 48 hours prior to said 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 Official Code of Georgia Annotated, the "Georgia Election Code," as now or hereafter amended.

SECTION 5.11.

Regular elections; time for holding.

Beginning with the year 2005 and every four years thereafter, on the Tuesday next following the first Monday in November, there shall be an election for the mayor and city council. The terms of office shall begin on January 1 following the November 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 designations.

SECTION 5.13.

Election by plurality.

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

SECTION 5.14.

Special elections; vacancies.

In the event that the office of mayor or councilmember shall become vacant as provided in Section 2.12 of this charter, the city council or those remaining may order a special election to fill the balance of the unexpired term of such official or, at its option, the city council or those remaining may appoint a successor for the remainder of the term. In all other respects, any special election shall be held and conducted in accordance with Chapter 2 of Title 21 of the Official Code of Georgia Annotated, the "Georgia Election Code," as now or hereafter amended.

1 **SECTION 5.15.**

2 Other provisions.

3 Except as otherwise provided by this charter, the city council shall, by ordinance, prescribe
4 such rules and regulations it deems appropriate to fulfill any options and duties under
5 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, the "Georgia Election
6 Code," as now or hereafter amended.

7 **SECTION 5.16.**

8 Removal of officers.

9 (a) The mayor, councilmembers, or other appointed officers provided for in this charter shall
10 be removed from office for any one or more of the causes provided in Title 45 of the Official
11 Code of Georgia Annotated or such other applicable laws as are or may hereafter be enacted.

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

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

23 (2) By an order of the Superior Court of Meriwether County following a hearing on a
24 complaint seeking such removal brought by any resident of the City of Warm Springs.

25 **ARTICLE VI**

26 **FINANCE**

27 **SECTION 6.10.**

28 Property tax.

29 The city council may assess, levy, and collect an ad valorem tax on all real and personal
30 property within the corporate limits of the city that is subject to such taxation by the state and
31 county. This tax is for the purpose of raising revenues to defray the costs of operating the city

1 government, of providing governmental services, for the repayment of principal and interest
2 on general obligations, and for any other public purpose as determined by the city council
3 in its discretion.

4 **SECTION 6.11.**

5 Millage rate; due dates; payment methods.

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

10 **SECTION 6.12.**

11 Occupation and business taxes.

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

16 **SECTION 6.13.**

17 Regulatory fees; permits.

18 The city council by ordinance shall have the power to require businesses or practitioners
19 doing business within this city to obtain a permit for such activity from the city and pay a
20 reasonable regulatory fee for such permit as provided by general law. Such fees shall reflect
21 the total cost to the city of regulating the activity, and, if unpaid, shall be collected as
22 provided in Section 6.18 of this charter.

23 **SECTION 6.14.**

24 Franchises.

25 (a) The city council shall have the power to grant franchises for the use of this city's streets
26 and alleys for the purposes of railroads, street railways, telephone companies, electric
27 companies, electric membership corporations, cable television and other telecommunications
28 companies, gas companies, transportation companies, and other similar organizations. The
29 city council shall determine the duration, terms, whether the same shall be exclusive or

1 nonexclusive, and the consideration for such franchises; provided, however, no franchise
 2 shall be granted for a period in excess of 35 years and no franchise shall be granted unless
 3 the city receives just and adequate compensation therefor. The city council shall provide for
 4 the registration of all franchises with the city clerk in a registration book kept by the clerk.
 5 The city council may provide by ordinance for the registration within a reasonable time of
 6 all franchises previously granted.

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

12 **SECTION 6.15.**

13 Service charges.

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

19 **SECTION 6.16.**

20 Special assessments.

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

26 **SECTION 6.17.**

27 Construction; other taxes and fees

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

1 the contract terminates without further obligation on the part of the municipality at the close
2 of the calendar year in which it was executed and at the close of each succeeding calendar
3 year for which it may be renewed. Contracts must be executed in accordance with the
4 requirements of Code Section 36-60-13 of the Official Code of Georgia Annotated or other
5 such applicable laws as are or may hereafter be enacted.

6 **SECTION 6.23.**

7 Fiscal year.

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

11 **SECTION 6.24.**

12 Preparation of budgets.

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

17 **SECTION 6.25.**

18 Submission of operating budget to city council.

19 On or before a date fixed by the city council but not later than 90 days prior to the beginning
20 of each fiscal year, the mayor shall submit to the city council a proposed operating budget
21 for the ensuing fiscal year. The budget shall be accompanied by a message from the mayor
22 containing a statement of the general fiscal policies of the city, the important features of the
23 budget, explanations of major changes recommended for the next fiscal year, a general
24 summary of the budget, and such other pertinent comments and information. The operating
25 budget and the capital budget hereinafter provided for, the budget message, and all
26 supporting documents shall be filed in the office of the city clerk and shall be open to public
27 inspection.

1 such purpose, but any additional appropriations may be made only from an existing
2 unexpended surplus.

3 **SECTION 6.29.**

4 Capital budget.

5 (a) On or before the date fixed by the city council but no later than 90 days prior to the
6 beginning of each fiscal year, the mayor shall submit to the city council a proposed capital
7 improvements plan with a recommended capital budget containing the means of financing
8 the improvements proposed for the ensuing fiscal year. The city council shall have power to
9 accept, with or without amendments, or reject the proposed plan and proposed budget. The
10 city council shall not authorize an expenditure for the construction of any building, structure,
11 work, or improvement unless the appropriations for such project are included in the capital
12 budget, except to meet a public emergency as provided in Section 2.24 of this charter.

13 (b) The city council shall adopt by ordinance the final capital budget for the ensuing fiscal
14 year not later than December 15 of each year. No appropriation provided for in a prior capital
15 budget shall lapse until the purpose for which the appropriation was made shall have been
16 accomplished or abandoned; provided, however, the mayor may submit amendments to the
17 capital budget at any time during the fiscal year, accompanied by recommendations. Any
18 such amendments to the capital budget shall become effective only upon adoption by
19 ordinance.

20 **SECTION 6.30.**

21 Independent audit.

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

27 **SECTION 6.31.**

28 Contracting procedures.

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

30 (1) It is in writing;

1 (2) It is made or authorized by the city council and such approval is entered in the city
2 council journal of proceedings pursuant to Section 2.20 of this charter.

3 **SECTION 6.32.**

4 Centralized purchasing.

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

7 **SECTION 6.33.**

8 Sale and lease of city property.

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

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

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

27 **ARTICLE VII**

28 **GENERAL PROVISIONS**

29 **SECTION 7.10.**

30 Bonds for officials.

1 The officers and employees of this city shall execute such surety or fidelity bonds in such
2 amounts and upon such terms and conditions as the city council shall from time to time
3 require by ordinance or as may be required by law.

4 **SECTION 7.11.**

5 Prior ordinances.

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

9 **SECTION 7.12.**

10 Pending matters.

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

15 **SECTION 7.13.**

16 Construction.

17 (a) Section captions in this charter are informative only and are not to be considered as a part
18 hereof.

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

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

22 **SECTION 7.14.**

23 Severability.

24 If any article, section, subsection, paragraph, sentence, or part thereof of this charter shall be
25 held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect
26 or impair other parts of this charter unless it clearly appears that such other parts are wholly
27 and necessarily dependent upon the part held to be invalid or unconstitutional, it being the
28 legislative intent in enacting this charter that each article, section, subsection, paragraph,
29 sentence, or part thereof be enacted separately and independent of each other.

