

House Bill 1477

By: Representative Lane of the 167th

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the City of Darien; to provide for incorporation, boundaries, and
2 powers of the city; to provide for a governing authority of such city and the powers, duties,
3 authority, election, terms, vacancies, compensation, expenses, qualifications, prohibitions,
4 conflicts of interest, and suspension and removal from office relative to members of such
5 governing authority; to provide for inquiries and investigations; to provide for oaths,
6 organization, meetings, quorum, voting, rules, and procedures; to provide for ordinances and
7 codes; to provide for a mayor and certain duties, powers, and other matters relative thereto;
8 to provide for administrative affairs and responsibilities; to provide for boards, commissions,
9 and authorities; to provide for a city attorney, a city clerk, a city manager, and other
10 personnel and matters relating thereto; to provide for rules and regulations; to provide for a
11 municipal court and the judge or judges thereof and other matters relative to those judges;
12 to provide for the court's jurisdiction, powers, practices, and procedures; to provide for the
13 right of certiorari; to provide for elections; to provide for taxation, licenses, and fees; to
14 provide for franchises, service charges, and assessments; to provide for bonded and other
15 indebtedness; to provide for auditing, accounting, budgeting, and appropriations; to provide
16 for city contracts and purchasing; to provide for the conveyance of property and interests
17 therein; to provide for bonds for officials; to provide for prior ordinances and rules, pending
18 matters, and existing personnel; to provide for penalties; to provide for definitions and
19 construction; to provide for other matters relative to the foregoing; to repeal a specific Act;
20 to provide for submission of this Act for preclearance under the federal Voting Rights Act
21 of 1965, as amended; to provide for an effective date; to repeal conflicting laws; and for
22 other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 ARTICLE I
25 INCORPORATION AND POWERS

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

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

10 (4) Building regulations. To regulate and to license the erection and construction of
11 buildings and all other structures; to adopt building, housing, plumbing, electrical, gas,
12 and heating and air-conditioning codes; and to regulate all housing and building trades;

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

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

23 (7) Contracts. To enter into contracts and agreements with other governmental entities
24 and with private persons, firms, and corporations;

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

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

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

1 payment of such charges, taxes, or fees; and to provide for the manner and method of
2 collecting such service charges;

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

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

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

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

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

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

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

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

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

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

1 to provide for the withdrawal of service for refusal or failure to pay the same; and to
2 authorize the extension of water, sewerage, electrical, and communication distribution
3 systems, and all necessary appurtenances by which said utilities are distributed, inside
4 and outside the corporate limits of the city; and to provide utility services to persons,
5 firms, and corporations inside and outside the corporate limits of the city as provided by
6 ordinance;

7 (21) Nuisances. To define a nuisance and provide for its abatement whether on public
8 or private property;

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

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

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

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

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

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

32 (28) Public transportation. To organize and operate or contract for such public
33 transportation systems as are deemed beneficial;

34 (29) Public utilities and services. To grant franchises or make contracts for or impose
35 taxes on public utilities and public service companies and to prescribe the rates, fares,
36 regulations, and standards and conditions of service applicable to the service to be

1 provided by the franchise grantee or contractor, insofar as not in conflict with valid
2 regulations of the Georgia Public Service Commission;

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

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

10 (32) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade
11 of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise
12 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and
13 walkways within the corporate limits of the city; and to negotiate and execute leases over,
14 through, under, or across any city property or the right of way of any street, road, alley,
15 or walkway or portion thereof within the corporate limits of the city, for bridges,
16 passageways, or any other purpose or use between buildings on opposite sides of the
17 street and for other bridges, overpasses, and underpasses for private use at such location
18 and to charge a rental therefor in such manner as may be provided by ordinance; and to
19 authorize and control the construction of bridges, overpasses, and underpasses within the
20 corporate limits of the city; and to grant franchises and rights of way throughout the
21 streets and roads and over the bridges and viaducts for the use of public utilities and for
22 private use; and to require real estate owners to repair and maintain in a safe condition
23 the sidewalks adjoining their lots or lands and to impose penalties for failure to do so;

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

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

36 (35) Special areas of public regulation. To regulate or prohibit junk dealers, pawn shops,
37 the manufacture, sale, or transportation of any intoxicating liquors, and the use and sale

1 of firearms; to regulate the transportation, storage, and use of combustible, explosive, and
 2 inflammable materials, the use of lighting and heating equipment, and any other business
 3 or situation which may be dangerous to persons or property; to regulate and control the
 4 conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows
 5 of any kind, by taxation or otherwise; and to license, tax, regulate, or prohibit
 6 professional fortunetelling, palmistry, adult bookstores, and massage parlors;

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

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

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

13 (39) Taxicabs or similar conveyances. To regulate and license vehicles operated for hire
 14 in the city; to limit the number of such vehicles; to require the operators thereof to be
 15 licensed; to require public liability insurance on such vehicles in the amounts to be
 16 prescribed by ordinance; and to regulate the parking of such vehicles;

17 (40) Urban redevelopment. To organize and operate an urban redevelopment program;
 18 and

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

30 **SECTION 1.13.**

31 Exercise of powers.

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

1 officials shall take office the first nonholiday after January 1 of the succeeding year. The
2 mayor and city council shall serve until their respective successors are qualified and elected.

3 **SECTION 2.12.**

4 Vacancies in office.

5 (a)(1) The office of mayor or councilmember shall become vacant upon the incumbent's
6 death, resignation, forfeiture of office, or removal from office in any manner authorized
7 by this charter or the general laws of the State of Georgia.

8 (2) Upon the suspension from office of mayor or councilmember in any manner
9 authorized by the general laws of the State of Georgia, the city council or those remaining
10 shall appoint a successor for the duration of the suspension. If the suspension becomes
11 permanent, then the office shall become vacant and shall be filled as provided in
12 subsection (b) of this section.

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

20 **SECTION 2.13.**

21 Nonpartisan elections.

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

24 **SECTION 2.14.**

25 Election by majority.

26 The candidate receiving a majority of the votes cast for any city office shall be elected.

27 **SECTION 2.15.**

28 Compensation and expenses.

29 The mayor and councilmembers shall receive compensation and expenses for their services
30 as provided by ordinance and in accordance with Chapter 35 of Title 36 of the O.C.G.A.

SECTION 2.16.

Prohibitions.

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

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

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

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

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

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

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

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

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

5 (d) Any violation of this section which occurs with the knowledge, express or implied, of
 6 a party to a contract or sale shall render such contract or sale voidable at the option of the city
 7 council.

8 (e) Except as authorized by law, no member of the city council shall hold any other elective
 9 or other city employment during the term for which that person was elected. The provisions
 10 of this subsection shall not apply to any person holding employment on the effective date of
 11 this charter.

12 **SECTION 2.17.**

13 Removal of officers.

14 (a) The mayor, a councilmember, or other appointed officers provided for in this charter
 15 shall be removed from office for any one or more of the following causes:

16 (1) Incompetence, misfeasance, or malfeasance in office;

17 (2) Conviction of a crime involving moral turpitude;

18 (3) Failure at any time to possess any qualifications of office as provided by this charter
 19 or by law;

20 (4) Knowingly violating Section 2.16 of this charter or any express prohibition of this
 21 charter;

22 (5) Abandonment of office or neglect to perform the duties thereof; or

23 (6) Failure for any other cause to perform the duties of office as required by this charter
 24 or by state law.

25 (b) Removal of any officer pursuant to subsection (a) of this section shall be accomplished:

26 (1) By the vote of three councilmembers after an investigative hearing. In the event an
 27 elected office is sought to be removed by the action of the city council, such officer shall
 28 be entitled to a written notice specifying the ground or grounds for removal and to a
 29 public hearing which shall be held not less than ten days after the service of such written
 30 notice. Any elected officer sought to be removed from office as provided in this section
 31 shall have the right of appeal from the decision of the city council to the Superior Court
 32 of McIntosh County. Such appeal shall be governed by the same rules as govern appeals
 33 to the superior court from the probate court; or

34 (2) By an order of the Superior Court of McIntosh County following a hearing on a
 35 complaint seeking such removal brought by any resident of the city.

SECTION 3.11.

Meetings.

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

(b) Special meetings of the city council may be held on call of the mayor or two members of the city council. Notice of such special 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 3.12.

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.

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

SECTION 3.13.

Quorum; voting.

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

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

5 **SECTION 3.14.**

6 Ordinances.

7 (a) Every proposed ordinance should be introduced in writing and in the form required for
 8 final adoption. No ordinance shall contain a subject which is not expressed in its title. The
 9 enacting clause shall be "The Council of the City of Darien hereby ordains . . ." and every
 10 ordinance shall so begin.

11 (b) An ordinance may be introduced by any councilmember and be read at a regular or
 12 special meeting of the city council. Ordinances shall be considered and adopted or rejected
 13 by the city council in accordance with the rules which it shall establish; provided, however,
 14 an ordinance shall not be adopted the same day it is introduced, except for emergency
 15 ordinances provided for in Section 3.16 of this charter. Upon introduction of any ordinance,
 16 the clerk shall as soon as possible distribute a copy to the mayor and to each councilmember
 17 and shall file a reasonable number of copies in the office of the clerk and at such other public
 18 places as the city council may designate.

19 **SECTION 3.15.**

20 Action requiring an ordinance.

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

22 **SECTION 3.16.**

23 Emergencies.

24 To meet a public emergency affecting life, health, property, or public peace, the city council
 25 may convene on call of the mayor or two councilmembers and may promptly adopt an
 26 emergency ordinance, but such ordinance may not levy taxes; grant, renew, or extend a
 27 franchise; regulate the rate charged by any public utility for its services; or authorize the
 28 borrowing of money except for loans to be repaid within 30 days. An emergency ordinance
 29 shall be introduced in the form prescribed for ordinances generally, except that it shall be
 30 plainly designated as an emergency ordinance and shall contain, after the enacting clause,
 31 a declaration stating that an emergency exists and describing the emergency in clear and
 32 specific terms. An emergency ordinance may be adopted, with or without amendment, or
 33 rejected at the meeting at which it is introduced, but the affirmative vote of at least three
 34 councilmembers shall be required for adoption. It shall become effective upon adoption or

1 at such later time as it may specify. Every emergency ordinance shall automatically stand
 2 repealed 30 days following the date upon which it was adopted, but this shall not prevent
 3 reenactment of the ordinance in the manner specified in this section if the emergency
 4 continues to exist. An emergency ordinance may also be repealed by adoption of a repealing
 5 ordinance in the same manner specified in this section for adoption of emergency ordinances.

6 **SECTION 3.17.**

7 Codes of technical regulations.

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

11 (1) The requirements of subsection (b) of Section 3.14 of this charter for distribution and
 12 filing of copies of the ordinance shall be construed to include copies of any code of
 13 technical regulations, as well as the adopting ordinance; and

14 (2) A copy of each adopted code of technical regulations, as well as the adopting
 15 ordinance, shall be authenticated and recorded by the clerk pursuant to Section 3.18 of
 16 this charter.

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

19 **SECTION 3.18.**

20 Codification of ordinances.

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

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

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

1 code currently in effect and shall be suitable in form for incorporation within the code. The
 2 city council shall make such further arrangements as deemed desirable with reproduction and
 3 distribution of any current changes in or additions to codes of technical regulations and other
 4 rules and regulations included in the code.

5 **SECTION 3.19.**

6 City manager; appointment; qualifications; compensation.

7 The city council shall appoint a city manager for an indefinite term and shall set his or her
 8 compensation. The city manager shall be appointed solely on the basis of that person's
 9 executive and administrative qualifications.

10 **SECTION 3.20.**

11 Removal of city manager.

12 (a) The city council may remove the city manager from office in accordance with the
 13 following procedures:

14 (1) The city council shall adopt by affirmative vote of a majority of all its members a
 15 preliminary resolution which must state the reasons for removal and may suspend the city
 16 manager from duty for a period not to exceed 45 days. A copy of the resolution shall be
 17 delivered promptly to the city manager;

18 (2) Within five days after a copy of the resolution is delivered to the city manager, he or
 19 she may file with the city council a written request for a public hearing. This hearing
 20 shall be held within 30 days after the request is filed. The city manager may file with the
 21 city council a written reply not later than five days before the hearing; and

22 (3) If the city manager has not requested a public hearing within the time specified in
 23 paragraph (2) of this subsection, the city council may adopt a final resolution for removal,
 24 which may be made effective immediately, by an affirmative vote of a majority of all its
 25 members. If the city manager has requested a public hearing, the city council may adopt
 26 a final resolution for removal, which may be made effective immediately, by an
 27 affirmative vote of a majority of all its members at any time after the public hearing.

28 (b) The city manager shall continue to receive his or her salary until the effective date of a
 29 final resolution of removal.

30 **SECTION 3.21.**

31 Acting city manager.

32 By letter filed with the city clerk, the city manager shall designate a qualified city
 33 administrative officer to exercise the powers and perform the duties of city manager during
 34 his or her temporary absence or disability. During such absence or disability, the city council

1 may revoke such designation at any time and appoint another officer of the city to serve until
2 the city manager shall return or his or her disability shall cease.

3 **SECTION 3.22.**

4 Powers and duties of the city manager.

5 The city manager shall be the chief executive and administrative officer of the city. The city
6 manager shall be responsible to the city council for the administration of all city affairs
7 placed in his or her charge by or under this charter. The city manager shall have the
8 following powers and duties:

- 9 (1) To appoint and, when he or she deems it necessary for the good of the city, suspend
10 or remove all city employees and administrative officers he or she appoints, except as
11 otherwise provided by law or personnel ordinances adopted pursuant to this charter. The
12 city manager may authorize any administrative officer who is subject to the city
13 manager's direction and supervision to exercise these powers with respect to subordinates
14 in that officer's department, office, or agency;
- 15 (2) To direct and supervise the administration of all departments, offices, and agencies
16 of the city, except as otherwise provided by this charter or by law;
- 17 (3) To attend all city council meetings and have the right to take part in discussion, but
18 the city manager may not vote;
- 19 (4) To see that all laws, provisions of this charter, and acts of the city council, subject to
20 enforcement by the city manager or by officers subject to the city manager's direction and
21 supervision, are faithfully executed;
- 22 (5) To prepare and submit the annual operating budget and capital budget to the city
23 council;
- 24 (6) To submit to the city council and make available to the public a complete report on
25 the finances and administrative activities of the city as of the end of each fiscal year;
- 26 (7) To make such other reports as the city council may require concerning the operations
27 of city departments, offices, and agencies subject to the city manager's direction and
28 supervision;
- 29 (8) To keep the city council fully advised as to the financial condition and future needs
30 of the city, and make such recommendations to the city council concerning the affairs of
31 the city as he or she deems desirable; and
- 32 (9) To perform other such duties as are specified in this charter or as may be required by
33 the city council.

- 1 (c) All appointed officers and directors of departments shall receive such compensation as
2 prescribed by ordinance.
- 3 (d) There shall be a director of each department or agency who shall be its principal officer.
4 Each director shall, subject to the direction and supervision of the city manager, be
5 responsible for the administration and direction of the affairs and operations of his or her
6 department or agency. The city manager may allow directors to appoint and remove
7 personnel within their respective departments; however, at any time the city manager can
8 suspend this practice.
- 9 (e) All directors under the supervision of the city manager shall be appointed by the city
10 manager. The city manager may suspend or remove directors under his or her supervision
11 and the city manager shall give written notice of such action and the reason therefor to the
12 director involved and to the city council.

13 **SECTION 4.11.**

14 **Boards, commissions, and authorities.**

- 15 (a) The city council shall create by ordinance such boards, commissions, and authorities to
16 fulfill any investigative, quasi-judicial, or quasi-legislative function the city council deems
17 necessary and shall by ordinance establish the composition, period of existence, duties, and
18 powers thereof.
- 19 (b) All members of boards, commissions, and authorities of the city shall be appointed by
20 the city council for such terms of office and in such manner as shall be provided by
21 ordinance, except where other appointing authority, terms of office, or manner of
22 appointment is prescribed by this charter or by law.
- 23 (c) The city council by ordinance may provide for the compensation and reimbursement for
24 actual and necessary expenses of the members of any board, commission, or authority.
- 25 (d) Except as otherwise provided by charter or by law, no member of any board,
26 commission, or authority shall hold any elective office in the city.
- 27 (e) Any vacancy on a board, commission, or authority of the city shall be filled for the
28 unexpired term in the manner prescribed in this charter for original appointment, except as
29 otherwise provided by this charter or by law.
- 30 (f) No member of a board, commission, or authority shall assume office until that person has
31 executed and filed with the clerk of the city an oath obligating that person to perform
32 faithfully and impartially the duties of that person's office, and such oath shall be prescribed
33 by ordinance and administered by the mayor.
- 34 (g) Any member of a board, commission, or authority may be removed from office for cause
35 by a vote of three members of the city council. The process for removing board members
36 shall be the same as referred to in Section 2.17 of this charter.

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

9 **SECTION 4.12.**

10 City attorney.

11 The city council shall appoint a city attorney, who shall be a member of the State Bar of
12 Georgia and shall have actively practiced law for at least one year. The city attorney shall
13 serve at the pleasure of the city council. The city attorney shall be responsible for
14 representing and defending the city in all litigation in which the city is a party; may be the
15 prosecuting officer in the municipal court; shall attend the meetings of the city council as
16 directed; shall advise the city council, mayor, and other officers and employees of the city
17 concerning legal aspects of the city's affairs; and shall perform such other duties as may be
18 required by virtue of such person's position as city attorney. The city council shall provide
19 for the compensation of the city attorney.

20 **SECTION 4.13.**

21 City clerk.

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

25 **SECTION 4.14.**

26 Treasurer.

27 The city manager shall appoint a city treasurer to collect all taxes, licenses, fees, and other
28 moneys belonging to the city subject to the provisions of this charter and the ordinances of
29 the city and to enforce all laws of Georgia relating to the collection of delinquent taxes and
30 sale or foreclosure for nonpayment of taxes to the city. The city treasurer shall also be
31 responsible for the general duties of a treasurer and fiscal officer. The city clerk and city
32 treasurer can be the same person.

1 **SECTION 4.15.**

2 City auditor.

3 The city manager shall appoint with confirmation of the city council a city auditor to perform
4 the duties of an auditor or accountant.

5 **SECTION 4.16.**

6 Position classification and pay plan.

7 The city manager shall be responsible for the preparation of a position classification and pay
8 plan which shall be submitted to the city council for approval. Such plan may apply to all
9 employees of the city and any of its agencies, departments, boards, commissions, or
10 authorities. When a pay plan has been adopted, the city council shall not increase or decrease
11 the salary range applicable to any position except by amendment of such pay plan. The city
12 manager shall apply the pay plan to city employees. For purposes of this section, all elected
13 and appointed city officials are not city employees.

14 **SECTION 4.17.**

15 Rules and regulations.

16 The city manager shall present to the city council for approval rules and regulations
17 consistent with this charter concerning:

- 18 (1) The method of employee selection and probationary periods of employment;
19 (2) The administration of a position classification and pay plan, methods of promotion
20 and applications of service ratings thereto, and transfer of employees within the
21 classification plan;
22 (3) Hours of work, vacation, sick leave, and other leaves of absence, overtime pay, and
23 the order and manner in which layoffs shall be effected;
24 (4) Such dismissal hearings as due process may require; and
25 (5) Such other personnel notice as may be necessary to provide for adequate and
26 systematic handling of personnel affairs.

27 ARTICLE V

28 JUDICIAL BRANCH

29 **SECTION 5.10.**

30 Municipal court.

31 There shall be a court to be known as the Municipal Court of the City of Darien, Georgia.

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

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

13 (g) The municipal court shall have the authority to bind prisoners over to the appropriate
 14 court when it appears by probable cause that state law has been violated.

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

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

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

25 **SECTION 5.14.**

26 Certiorari.

27 The right of certiorari from the decision and judgment of the municipal court shall exist in
 28 all criminal cases and ordinance violation cases, and such certiorari shall be obtained under
 29 the sanction of a judge of the Superior Court of McIntosh County under the laws of the State
 30 of Georgia regulating the granting and issuance of writs of certiorari.

31 **SECTION 5.15.**

32 Rules for court.

33 With the approval of the city council, the judge shall have full power and authority to make
 34 reasonable rules and regulations necessary and proper to secure the efficient and successful
 35 administration of the municipal court; provided, however, that the city council may adopt in

1 part or in total the rules and regulations applicable to superior courts. The rules and
2 regulations made or adopted shall be filed with the city clerk, shall be available for public
3 inspection, and, upon request, a copy shall be furnished to all defendants in municipal court
4 proceedings at least 48 hours prior to said proceedings.

5 **ARTICLE VI**

6 **FINANCE**

7 **SECTION 6.10.**

8 **Property tax.**

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

15 **SECTION 6.11.**

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

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

21 **SECTION 6.12.**

22 **Occupation taxes and business license fees.**

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

1 owners under such terms and conditions as are reasonable. If unpaid, such charges shall be
2 collected as provided in Section 6.18 of this charter.

3 **SECTION 6.17.**

4 Other taxes.

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

8 **SECTION 6.18.**

9 Collection of delinquent taxes and fees.

10 The city council by ordinance may provide generally for the collection of delinquent taxes,
11 fees, or other revenue due the city under Sections 6.10 through 6.17 of this charter by
12 whatever reasonable means as are not precluded by law. This shall include providing for the
13 dates when the taxes or fees are due; late penalties or interest; issuance and execution of
14 fi. fas.; creation and priority of liens; making delinquent taxes and fees personal debts of the
15 persons required to pay the taxes or fees imposed; revoking city permits for failure to pay any
16 city taxes or fees; and providing for the assignment or transfer of tax executions.

17 **SECTION 6.19.**

18 Borrowing.

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

23 **SECTION 6.20.**

24 Revenue bonds.

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

28 **SECTION 6.21.**

29 Loans.

30 The city may obtain loans in accordance with state and federal laws.

SECTION 6.22.

Accounting and budgeting.

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 6.23.

Budget ordinance.

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

SECTION 6.24.

Operating budget.

On or before a date fixed by the city council but not later than 60 days prior to the beginning of each fiscal year, the city manager shall submit to the city council a proposed operating budget for the ensuing fiscal year. The budget shall be accompanied by a message from the city manager containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget, and such other comments and information as he or she may deem pertinent. The operating budget, the capital improvements budget, the budget message, and all supporting documents shall be filed in the office of the city clerk and shall be open to public inspection.

SECTION 6.25.

Action by city council on budget.

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

(b) The city council by ordinance shall adopt the final operating budget for the ensuing fiscal year not later than June of each year. If the city council fails to adopt the budget by said date, the amounts appropriated for operation for the then current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly, until such time as the city council adopts a budget for the ensuing fiscal year. Adoption of the budget shall take the form of an appropriations ordinance setting out the

1 estimated revenues in detail by sources and making appropriations according to fund and by
 2 organizational unit, purpose, or activity as set out in the budget preparation ordinance
 3 adopted pursuant to Section 6.23 of this charter.

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

8 **SECTION 6.26.**

9 Levy of taxes.

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

16 **SECTION 6.27.**

17 Changes in budget.

18 The city council by majority vote may make changes in the appropriations contained in the
 19 current operating budget at any regular meeting or special or emergency meeting called for
 20 such purposes.

21 **SECTION 6.28.**

22 Capital improvements.

23 (a) On or before the date fixed by the city council, but not later than 60 days prior to the
 24 beginning of each fiscal year, the city manager shall submit to the city council a proposed
 25 capital improvements budget with his or her recommendations as to the means of financing
 26 the improvements proposed for the ensuing fiscal year. The city council shall have the power
 27 to accept, with or without amendments, or reject the proposed program and proposed means
 28 of financing. The city council shall not authorize an expenditure for the construction of any
 29 building, structure, work, or improvement unless the appropriations for such project are
 30 included in the capital improvements budget, except to meet a public emergency as provided
 31 in Section 3.16 of this charter.

32 (b) The city council shall adopt by ordinance the final capital improvements budget for the
 33 ensuing fiscal year not later than June of each year. No appropriation provided for in a prior
 34 capital budget shall lapse until the purpose for which the appropriation was made shall have

1 been accomplished or abandoned; provided, however, the city manager may submit
2 amendments to the capital improvements budget at any time during the fiscal year,
3 accompanied by his or her recommendations. Any such amendments to the capital
4 improvements budget shall become effective only upon adoption by a majority vote of the
5 city council.

6 **SECTION 6.29.**

7 Audits.

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

13 **SECTION 6.30.**

14 Procurement and property management.

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

- 16 (1) It is in writing;
17 (2) It is drawn by or submitted and reviewed by the city attorney and, as a matter of
18 course, is signed by the city attorney to indicate such drafting or review; and
19 (3) It is made or authorized by the city council and such approval is entered in the city
20 council journal of proceedings pursuant to Section 3.14 of this charter.

21 **SECTION 6.31.**

22 Purchasing.

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

25 **SECTION 6.32.**

26 Sale and lease of property.

- 27 (a) The city council may sell and convey or lease any real or personal property owned or
28 held by the city for governmental or other purposes as now or hereafter provided by law.
29 (b) The city council may quitclaim any rights it may have in property not needed for public
30 purposes upon request by the city manager or mayor and adoption of a resolution, both
31 finding that the property is not needed for public or other purposes and that the interest of the
32 city has no readily ascertainable monetary value.

1 (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place
 2 of the city a small parcel or tract of land is cut off or separated by such work from a larger
 3 tract or boundary of land owned by the city, the city council may authorize the mayor to
 4 execute and deliver in the name of the city a deed conveying said cut-off or separated parcel
 5 or tract of land to an abutting or adjoining property owner or owners in exchange for rights
 6 of way of said street, avenue, alley, or public place when such exchange is deemed to be in
 7 the best interest of the city. All deeds and conveyances heretofore and hereafter so executed
 8 and delivered shall convey all title and interest the city has in such property, notwithstanding
 9 the fact that no public sale after advertisement was or 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 Rules and regulations.

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

22 **SECTION 7.12.**

23 Pending matters.

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

28 **SECTION 7.13.**

29 Definitions and construction.

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

- 1 (b) The word "shall" is mandatory and the word "may" is permissive.
2 (c) The singular shall include the plural, the masculine shall include the feminine, and vice
3 versa.
4 (d) Except as specifically provided otherwise by this charter, the term:
5 (1) "City council" means the members of the city council and the mayor.
6 (2) "Councilmember" means a member of the city council other than the mayor.

7 **SECTION 7.14.**

8 Specific repealer.

9 An Act amending, consolidating, and superseding the several Acts incorporating the City of
10 Darien, in the County of McIntosh, State of Georgia, and creating a new charter and
11 municipal government for said municipal corporation, approved March 10, 1964 (Ga. L.
12 1964, p. 2708), as amended, is repealed in its entirety.

13 **SECTION 7.15.**

14 Preclearance under Federal Voting Rights Act.

15 The governing authority of the City of Darien shall through its legal counsel cause this Act
16 to be submitted for preclearance under the federal Voting Rights Act of 1965, as amended;
17 and such submission shall be made to the United States Department of Justice or filed with
18 the appropriate court no later than 45 days after the date on which this Act is approved by the
19 Governor or otherwise becomes law without such approval.

20 **SECTION 7.16.**

21 Effective date.

22 This Act shall become effective upon its approval by the Governor or upon its becoming law
23 without such approval.

24 **SECTION 7.17.**

25 General repealer.

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