

House Bill 1478 (AS PASSED HOUSE AND SENATE)

By: Representative Bridges of the 10th

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the City of Demorest; to provide for incorporation, boundaries,
2 and powers of the city; to provide for a governing authority of such city and the powers,
3 duties, authority, election, terms, vacancies, compensation, expenses, qualifications,
4 prohibitions, conflicts of interest, and suspension and removal from office relative to
5 members of such governing authority; to provide for inquiries and investigations; to provide
6 for oaths, organization, meetings, quorum, voting, rules, and procedures; to provide for
7 ordinances and codes; to provide for a city manager, mayor, and mayor pro tempore and
8 certain duties, powers, and other matters relative thereto; to provide for administrative affairs
9 and responsibilities; to provide for boards, commissions, and authorities; to provide for a city
10 attorney, a city clerk, and other personnel and matters relating thereto; to provide for rules
11 and regulations; to provide for a municipal court and the judge or judges thereof and other
12 matters relative to those judges; to provide for the court's jurisdiction, powers, practices, and
13 procedures; to provide for the right of certiorari; to provide for elections; to provide for
14 taxation, licenses, and fees; to provide for franchises, service charges, and assessments; to
15 provide for bonded and other indebtedness; to provide for auditing, accounting, budgeting,
16 and appropriations; to provide for city contracts and purchasing; to provide for the
17 conveyance of property and interests therein; to provide for bonds for officials; to provide
18 for prior ordinances and rules, pending matters, and existing personnel; to provide for
19 penalties; to provide for definitions and construction; to provide for other matters relative to
20 the foregoing; to repeal an Act granting a new charter to the City of Demorest, approved
21 August 15, 1917 (Ga. L. 1917, p. 656), as amended; to repeal conflicting laws; and for other
22 purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

- 1 (1) 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 charter;
- 6 (2) 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 (3) Building regulation. 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 (4) 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 permit and regulate the same; to provide for the manner and method of payment of such
17 regulatory fees and taxes; and to revoke such permits after due process for failure to pay
18 any city taxes or fees;
- 19 (5) 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 (6) Contracts. To enter into contracts and agreements with other governmental entities
24 and with private persons, firms, and corporations;
- 25 (7) 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 (8) Environmental protection. To protect and preserve the natural resources,
30 environment, and vital areas of the state through the preservation and improvement of air
31 quality, the restoration and maintenance of water resources, the control of erosion and
32 sedimentation, the management of solid and hazardous waste, and other necessary actions
33 for the protection of the environment;
- 34 (9) Fire regulations. To fix and establish fire limits and from time to time to extend,
35 enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with
36 general law, relating to both fire prevention and detection and to fire fighting; and to
37 prescribe penalties and punishment for violations thereof;

- 1 (10) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection
2 and disposal and other sanitary service charge, tax, or fee for such services as may be
3 necessary in the operation of the city from all individuals, firms, and corporations
4 residing in or doing business in the city benefiting from such services; to enforce the
5 payment of such charges, taxes, or fees; and to provide for the manner and method of
6 collecting such service charges;
- 7 (11) General health, safety, and welfare. To define, regulate, and prohibit any act,
8 practice, conduct, or use of property which is detrimental to health, sanitation,
9 cleanliness, welfare, and safety of the inhabitants of the city and to provide for the
10 enforcement of such standards;
- 11 (12) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for
12 any purpose related to powers and duties of the city and the general welfare of its
13 citizens, on such terms and conditions as the donor or grantor may impose;
- 14 (13) Health and sanitation. To prescribe standards of health and sanitation and to provide
15 for the enforcement of such standards;
- 16 (14) Jail sentences. To provide that persons given jail sentences in the municipal court
17 may work out such sentences in any public works or on the streets, roads, drains, and
18 other public property in the city; to provide for commitment of such persons to any jail;
19 or to provide for commitment of such persons to any county work camp or county jail by
20 agreement with the appropriate county officials;
- 21 (15) Motor vehicles. To regulate the operation of motor vehicles and exercise control
22 over all traffic, including parking upon or across the streets, roads, alleys, and walkways
23 of the city;
- 24 (16) Municipal agencies and delegation of power. To create, alter, or abolish
25 departments, boards, offices, commissions, and agencies of the city and to confer upon
26 such agencies the necessary and appropriate authority for carrying out all the powers
27 conferred upon or delegated to the same;
- 28 (17) Municipal debts. To appropriate and borrow money for the payment of debts of the
29 city and to issue bonds for the purpose of raising revenue to carry out any project,
30 program, or venture authorized by this charter or the laws of the State of Georgia;
- 31 (18) Municipal property ownership. To acquire, dispose of, lease, and hold in trust or
32 otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or
33 outside the property limits of the city;
- 34 (19) Municipal property protection. To provide for the preservation and protection of
35 property and equipment of the city and the administration and use of same by the public;
36 and to prescribe penalties and punishment for violations thereof;

1 (20) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose
2 of public utilities, including but not limited to a system of waterworks, sewers and drains,
3 sewage disposal, gas works, electric light plants, cable television and other
4 telecommunications, transportation facilities, public airports, and any other public utility;
5 and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties and
6 to provide for the withdrawal of service for refusal or failure to pay the same;

7 (21) Nuisance. To define a nuisance and provide for its abatement whether on public or
8 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 detentional, 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 grant franchises and rights of way
14 throughout the streets and roads and over the bridges and viaducts for the use of public
15 utilities; and to require real estate owners to repair and maintain in a safe condition the
16 sidewalks adjoining their lots or lands and to impose penalties for failure to do so;

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

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

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

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

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

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

5 (39) 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 (40) Urban redevelopment. To organize and operate an urban redevelopment program;
10 and

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

22 **SECTION 1.13.**

23 Exercise of powers.

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

28 **SECTION 1.14**

29 Powers relating to the sale or lease of property.

30 (a) Except as otherwise provided in this charter or general state law, the council, when
31 disposing of any real or personal property of the city shall make all such sales to the highest
32 responsible bidder either by sealed bids or by auction after due notice has been given. The
33 city shall have the right to reject any and all bids or to cancel any proposed sale. The council

1 shall cause notice to be published once in the official legal organ of Habersham County or
2 in a newspaper of general circulation in the community not less than 15 days nor more than
3 60 days preceding the day of the auction, or if the sale is by sealed bids, preceding the last
4 day for the receipt of proposals. Such legal notice shall include a general description of the
5 property to be sold if such property is personal property or a legal description of the property
6 to be sold if such property is real property. If such sale is by sealed bids, such notice shall
7 also contain an invitation for proposals, shall state the conditions of the proposed sale, shall
8 state the address at which bid blanks and other written materials connected with the proposed
9 sale may be obtained, and the date, time, and place for the opening of bids. If such sale is
10 by auction, such notice shall also contain the conditions of the proposed sale and shall state
11 the date, time, and place of the proposed sale. Bids received in connection with a sale by
12 sealed bidding shall be opened in public at the time and place stated in the legal notice. A
13 tabulation of all bids received shall be available for public inspection following the opening
14 of all bids. All such bids shall be retained and kept available for public inspection for a
15 period of not less than 60 days from the date such bids are opened.

16 (b) Notwithstanding the foregoing provisions of this section, the council is authorized to sell
17 any lots from a municipal cemetery or personal property belonging to the city with an
18 estimated value of \$500.00 or less without regard to the foregoing provisions of this section.
19 Such sales may be made in the open market without advertisement and without the
20 acceptance of bids. The estimation of the value of any personal property to be sold shall be
21 in the sole and absolute discretion of the council or its designated agent; provided, however,
22 nothing herein shall prevent the council from trading or swapping property with another
23 property owner, if said trade or swap is deemed to be in the best interest of the municipality.

24 (c) The foregoing provisions of this section shall not apply to the disposal of property which
25 is acquired by deed or gift, will, or donation or property which is received from the United
26 States government or the State of Georgia pursuant to a program which imposed conditions
27 on the disposal of such property; or which is disposed of pursuant to the powers granted in
28 Chapter 61 of Title 36 of the O.C.G.A., the "Urban Redevelopment Law," or a homesteading
29 program; or which is sold or transferred to another governing authority or government
30 agency for public purposes.

31 (d) No real property of the city shall be sold or any bid accepted for the sale thereof unless
32 the amount offered for such property shall at least equal one-half of the last assessed value
33 of said real property for tax purposes; provided, however, that if the council shall
34 unanimously agree to sell such real property for a lesser amount than one-half of such
35 assessed value, the same may be done.

1 (e) The governing authority of the city is authorized to sell real property in established
 2 municipal industrial parks or in municipally designated industrial development areas for
 3 industrial development purposes.

4 **ARTICLE II**

5 **GOVERNMENT STRUCTURE**

6 **SECTION 2.10.**

7 City council creation; number; election.

8 The legislative authority of the government of this city, except as otherwise specifically
 9 provided in this charter, shall be vested in a city council to be composed of a mayor and four
 10 councilmembers. The mayor and councilmembers shall be elected in the manner provided
 11 by this charter.

12
 13 **SECTION 2.11.**

14 City councilmembers;
 15 terms and qualifications for office.

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

22 **SECTION 2.12.**

23 Council posts, elections, and terms of office.

24 (a) Each councilmember and the mayor shall be elected at large.

25 (b) Councilmembers shall be designated by posts. The respective councilmembers elected
 26 at the municipal election held in 2003 shall be designated as representing Posts 1 and 2, with
 27 the candidate having received the highest number of votes representing Post 1 and the
 28 candidate receiving the next highest number of votes representing Post 2. The first election
 29 for Posts 1 and 2 under this new charter shall be held at the regular municipal election in the
 30 year 2007 and every four years at every alternate municipal election thereafter. The
 31 respective councilmembers elected at the municipal election held in 2005 shall be
 32 representing Posts 3 and 4, with the candidate having received the highest number of votes

1 representing Post 3 and the candidate receiving the next highest number of votes representing
 2 Post 4. The first election for the mayor and for Posts 3 and 4 under this new charter shall be
 3 held at the regular municipal election in the year 2009 and every four years at every other
 4 municipal election thereafter. Terms of office for those officers shall begin at the first
 5 organizational meeting provided for under Section 2.18 of this charter immediately following
 6 those officers' respective elections.

7 (c) Candidates for election to the office of mayor shall so designate and qualify. Candidates
 8 for Posts 1 through 4 shall not qualify or designate for specific posts but shall continue to
 9 qualify, run for office, and be elected by plurality vote in the same manner as under the city's
 10 previous charter.

11 **SECTION 2.13.**

12 Vacancy; filling of vacancies.

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

16 (b) A vacancy in the office of mayor or councilmember shall be filled for the remainder of
 17 the unexpired term, if any, as provided for in Section 5.12 of this charter.

18 **SECTION 2.14.**

19 Compensation and expenses.

20 The mayor and each councilmember shall continue to receive the compensation which was
 21 in effect for said officials on the effective date of this charter. Changes in such compensation
 22 shall be accomplished pursuant to the provisions of Code Section 36-35-4 of the O.C.G.A.

23 **SECTION 2.15.**

24 Conflicts of interest; holding other offices.

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

27 (b) Conflict of interest—No elected official, appointed officer, or employee of the city or
 28 any agency or political entity to which this charter applies shall knowingly:

29 (1) Engage in any business or transaction or have a financial or other personal interest,
 30 direct or indirect, which is incompatible with the proper discharge of that person's official

1 duties or which would tend to impair the independence of that person's judgment or
2 action in the performance of that person's official duties;

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

7 (3) Disclose confidential information, including information obtained at meetings which
8 are closed pursuant to Chapter 14 of Title 50 of the O.C.G.A., concerning the property,
9 government, or affairs of the governmental body by which that person is engaged without
10 proper legal authorization or use such information to advance the financial or other
11 private interest of that person or others;

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

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

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

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

32 (d) Use of public property—No elected official, appointed officer, or employee of the city
33 or any agency or entity to which this charter applies shall use property owned by such
34 governmental entity for personal benefit, convenience, or profit except in accordance with
35 policies promulgated by the city council or the governing body of such agency or entity.

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

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

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

17 (h) Penalties for violation—

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

21 (2) Any officer or employee of the city who shall forfeit that person's office or position
 22 as described in paragraph (1) of this subsection shall be ineligible for appointment or
 23 election to or employment in a position in the city government for a period of three years
 24 thereafter.

25 **SECTION 2.16.**

26 Inquiries and investigations.

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

SECTION 2.17.

General power and authority of the city council.

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

SECTION 2.18.

Organizational meetings.

The city council shall hold an organizational meeting on the first business day of January. The meeting shall be called to order by the city clerk and the oath of office shall be administered to the newly elected members as follows:

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

SECTION 2.19.

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 and two councilmembers or three councilmembers. Notice of such special meeting shall be served on all other members personally, or by telephone personally, at least 24 hours in advance of the meeting. Such notice to councilmembers shall not be required if the mayor and all councilmembers are present when the special meeting is called. Such notice of any special meeting may be waived by a councilmember in writing before or after such a meeting and attendance at the meeting shall also constitute a waiver of notice on any business transacted in such councilmember's presence. Only the business stated in the call may be transacted at the special meeting.

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

SECTION 2.20.

Rules of procedure.

The city council shall adopt its rules of procedure and order of business consistent with the provisions of this charter.

SECTION 2.21.

Quorum; voting.

Three councilmembers or two councilmembers and the mayor shall constitute a quorum and shall be authorized to transact business of the city council. Voting on the adoption of ordinances shall be by voice vote and the vote shall be recorded in the minutes 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 minutes. Except as otherwise provided in this charter, the affirmative vote of three councilmembers or the mayor and two councilmembers shall be required for the adoption of any ordinance, resolution, or motion. The mayor shall vote on matters before the council only in cases where there is a tie vote of the other councilmembers.

SECTION 2.22.

Ordinance form; procedures.

(a) Every proposed ordinance should be introduced in writing and in the form required for final adoption. No ordinance shall contain any subject which is not expressed in its title. The enacting clause shall be "The mayor and council of the City of Demorest hereby ordain..." and every ordinance shall so begin.

(b) An ordinance may be introduced by any councilmember and be read at a regular or special meeting of the city council. Ordinances shall be considered and adopted or rejected by the city council in accordance with the rules which it shall establish; provided, however, that an ordinance shall not be adopted the same day it is introduced except for emergency ordinances provided for in Section 2.24 of this charter. Upon introduction of any ordinance, the clerk shall as soon as possible distribute a copy to the mayor and to each councilmember and shall file a reasonable number of copies in the office of the clerk and at such other public places as the city council may designate.

1 ordinance shall be construed to include copies of any code of technical regulations, as well
 2 as the adopting ordinance; and (2) a copy of each adopted code of technical regulations, as
 3 well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to
 4 Section 2.26 of this charter.

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

7 **SECTION 2.26.**

8 Signing; authenticating; recording; codification; printing.

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

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

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

28 **SECTION 2.27.**

29 Election of mayor; forfeiture; compensation.

30 The mayor shall be elected and shall serve for a term of four years and until the mayor's
 31 successor is elected and qualified. The mayor shall be a qualified elector of this city and
 32 shall have been a resident of the city for 12 months prior to the election. The mayor shall

1 continue to reside in this city during the period of the mayor's service. The compensation
2 of the mayor shall be established in the same manner as for councilmembers.

3 **SECTION 2.28.**

4 Mayor pro tempore.

5 During the absence or physical or mental disability of the mayor for any cause, the mayor
6 pro tempore of the city council, or in such person's absence or disability for any reason, any
7 one of the councilmembers chosen by a majority vote of the city council, shall be clothed
8 with all the rights and privileges of the mayor and shall perform the duties of the office of
9 the mayor so long as such absence or disability shall continue. Any such absence or
10 disability shall be declared by majority vote of all councilmembers. The mayor pro tempore
11 or selected councilmember shall sign all contracts and ordinances in which the mayor has a
12 disqualifying financial interest as provided in Section 2.15 of this charter.

13 **SECTION 2.29.**

14 Powers and duties of mayor.

15 (a) The mayor shall:

16 (1) Preside at all meetings of the city council;

17 (2) Be the head of the city for the purpose of service of process and for ceremonial
18 purposes and be the official spokesman for the city and the chief advocate of policy;

19 (3) Have the power to administer oaths and to take affidavits;

20 (4) Sign, with the attestation of the city clerk, as a matter of course on behalf of the city
21 all written and approved contracts, ordinances, and other instruments executed by the city
22 which by law are required to be in writing;

23 (5) Vote on matters before the city council in case of a tie and be counted toward a
24 quorum as any other councilmember; and

25 (6) Fulfill such other duties as the city council shall by ordinance establish.

26 (b) The mayor shall annually appoint a councilmember to oversee each of the city's
27 departments.

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

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

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

10 (g) All members of boards, commissions, or authorities of the city serve at will and may be
11 removed at any time by a vote of not less than three councilmembers unless otherwise
12 provided by law.

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

21 **SECTION 3.12.**

22 City attorney.

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

SECTION 3.13.

City clerk.

The councilmembers shall appoint a city clerk who shall not be a councilmember. The city clerk shall be custodian of the official city seal and city records; maintain city council records required by this charter; and perform such other duties as may be required by the city council. The city clerk's duties and responsibilities may be further defined or provided by a class specification or job description and shall include any other duties that may be assigned by the city manager.

SECTION 3.14.

City treasurer; financial officer.

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

SECTION 3.15.

City auditor.

The councilmembers may appoint a city auditor to perform the duties of an auditor.

SECTION 3.16.

City manager.

(a) The councilmembers shall appoint a city manager who shall be the chief administrative officer of the city and manage and direct the daily operations of the city government in accordance with local ordinances, bylaws, and with policies prescribed by the city council and shall have such authority, responsibilities, and duties as may be designated by the city council from time to time.

(b) The councilmembers may, in its discretion, combine the positions of city clerk, city treasurer, and city manager, or one or more of them, into one position.

1 (c) The city manager shall serve at the pleasure of the councilmembers and may be
 2 suspended or removed by a vote of three councilmembers or two councilmembers and the
 3 mayor.

4 **SECTION 3.17.**

5 RESERVED.

6 **SECTION 3.18.**

7 Personnel policies.

8 The city council may adopt rules and regulations consistent with this charter concerning:

9 (1) The method of employee selection and probationary periods of employment;

10 (2) The administration of the position classification and pay plan, methods of promotion
 11 and application of service ratings thereto, and transfer of employees within the
 12 classification plan;

13 (3) Hours of work, vacation, sick leave, and other leaves of absence, overtime pay, and
 14 the order and manner in which layoffs shall be effected;

15 (4) Such dismissal hearings as due process may require; and

16 (5) Such other personnel notices as may be necessary to provide for adequate and
 17 systematic handling of personnel affairs.

18 **ARTICLE IV**

19 **JUDICIAL BRANCH**

20 **SECTION 4.10.**

21 Creation; name.

22 There shall be a court to be known as the Municipal Court of the City of Demorest.

23 **SECTION 4.11.**

24 Chief judge; associate judge.

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

27 (b) No person shall be qualified or eligible to serve as a judge on the municipal court unless
 28 that person shall have attained the age of 21 years and shall be a member of the State Bar of

1 Georgia and shall possess all qualifications required by law. All judges shall be appointed
2 by the city council and shall serve until a successor is appointed and qualified.

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

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

6 (e) Before assuming office, each judge shall take an oath, given by the mayor, that such
7 judge will honestly and faithfully discharge the duties of the judge's office to the best of the
8 judge's ability and without fear, favor, or partiality. The oath shall be entered upon the
9 minutes of the city council journal required in Section 2.19 of this charter.

10 **SECTION 4.12.**

11 Convening.

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

13 **SECTION 4.13.**

14 Jurisdiction; powers.

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

17 (b) The municipal court shall have authority to punish those in its presence for contempt,
18 provided that such punishment shall not exceed \$200.00 or ten days in jail.

19 (c) The municipal court may fix punishment for offenses within its jurisdiction not
20 exceeding a fine of \$500.00 or imprisonment for 180 days or both such fine and
21 imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing, as
22 now or hereafter provided by law.

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

26 (e) The municipal court shall have authority to establish bail and recognizances to ensure
27 the presence of those charged with violations before such court and shall have discretionary
28 authority to accept cash or personal or real property as surety for the appearance of persons
29 charged with violations. Whenever any person shall give bail for that person's appearance
30 and shall fail to appear at the time fixed for trial, that person's bond shall be forfeited by the
31 judge presiding at such time and an execution issued thereon by serving the defendant and
32 the defendant's sureties with a rule nisi at least two days before a hearing on the rule nisi.
33 In the event that cash or property is accepted in lieu of bond for security for the appearance

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

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

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

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

15 **SECTION 4.14.**

16 Certiorari.

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

21 **SECTION 4.15.**

22 Rules for court.

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

1 ARTICLE VI

2 FINANCE

3 **SECTION 6.10.**

4 Property tax.

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

11 **SECTION 6.11.**

12 Millage rate; due dates; payment methods.

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

17 **SECTION 6.12.**

18 Occupation and business taxes.

19 The city council by ordinance shall have the power to levy such occupation or business taxes
20 as are not denied by law. The city council may classify businesses, occupations, or
21 professions for the purpose of such taxation in any way which may be lawful and may
22 compel the payment of such taxes as provided in Section 6.17 of this charter.

23 **SECTION 6.13.**

24 Fees; permits.

25 (a) The city council by ordinance shall have the power to require businesses or practitioners
26 doing business within this city to obtain a permit for such activity from the city and pay a
27 regulatory fee for such permit as provided by general law. Such fees shall reflect the total
28 cost to the city of regulating the activity and, if unpaid, shall be collected as provided in
29 Section 6.17 of this charter.

30 (b) The city council may levy impact fees in accordance with Georgia law.

SECTION 6.14.

Franchises.

(a) The city council shall have the power to grant franchises for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies, and other similar organizations. The city council shall determine the duration, terms, whether the same shall be exclusive or nonexclusive, and the consideration for such franchises; provided, however, no franchise shall be granted for a period in excess of 35 years and no franchise shall be granted unless the city receives just and adequate compensation therefor. The city council shall provide for the registration of all franchises with the city clerk in a registration book kept by the city clerk. The city council may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

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

SECTION 6.15.

Service charges.

The city council by ordinance shall have the power to assess and collect fees, charges, and tolls for sewers, sanitary and health services, or any other services provided or made available within and outside the corporate limits of the city for the total cost to the city of providing or making available such services. If unpaid, such charges shall be collected as provided in Section 6.17 of this charter.

SECTION 6.16.

Construction; other taxes.

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

SECTION 6.17.

Collection of delinquent taxes and fees.

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

SECTION 6.18.

General obligation bonds.

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

SECTION 6.19.

Revenue bonds.

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

SECTION 6.20.

Short-term loans.

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

SECTION 6.21.

Lease-purchase contracts.

The city may enter into multiyear lease, purchase, or lease-purchase contracts for the acquisition of goods, materials, real and personal property, services, and supplies, provided

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 O.C.G.A., or other such applicable laws as are
5 or may hereafter be enacted.

6 **SECTION 6.22.**

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 6.23.**

12 Budget ordinance.

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

18 **SECTION 6.24.**

19 Operating budget.

20 On or before a date fixed by the city council but not later than 30 days prior to the beginning
21 of each fiscal year, the city manager shall submit to the city council a proposed operating
22 budget for the ensuing fiscal year. The budget shall be accompanied by a message from the
23 city manager containing a statement of the general fiscal policies of the city, the important
24 features of the budget, explanations of major changes recommended for the next fiscal year,
25 a general summary of the budget, and other pertinent comments and information. The
26 operating budget, the budget message, and all supporting documents shall be filed in the
27 office of the city clerk and shall be open to public inspection.

1 **SECTION 6.25.**

2 Contracting procedures.

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

4 (1) It is in writing; and

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

7 ARTICLE VII

8 GENERAL PROVISIONS

9 **SECTION 7.10.**

10 Bonds for officials.

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

14 **SECTION 7.11.**

15 Prior ordinances.

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

19 **SECTION 7.12.**

20 Existing personnel and officers.

21 Except as specifically provided otherwise by this charter, all personnel and officers of the
22 city and their rights, privileges, and powers shall continue beyond the time this charter takes
23 effect until changed pursuant to this charter.

24 **SECTION 7.13.**

25 Pending matters.

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

SECTION 7.14.

Construction and definitions.

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

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

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

(d) The phrase "city council" or "council" means the governing body of the City of Demorest which comprises four councilmembers and a mayor. Unless otherwise specified, all votes and actions taken by the governing body of the city shall consist of and include the four councilmembers and the mayor.

SECTION 7.15.

Specific repealer.

The charter of 1917 (Ga. L. 1917, p. 656) is repealed in its entirety and all amendatory Acts thereto are likewise repealed in their entirety.

SECTION 7.16.

General repealer.

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