

House Bill 93

By: Representative Maddox of the 172nd

A BILL TO BE ENTITLED
AN ACT

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

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I

INCORPORATION AND POWERS

SECTION 1.10.

Name.

The City of Bainbridge, in Decatur County, Georgia, is reincorporated by the enactment of this charter and is constituted and declared a body politic and corporate under the name and style City of Bainbridge, Georgia, and by that name shall have perpetual succession.

SECTION 1.11.

Corporate boundaries.

(a) The boundaries of this city shall be those existing on the earliest effective date in 2007 of the adoption of this charter with such alterations as may be made from time to time in the manner provided by law. The boundaries of this city at all times shall be shown on a map, a written description, or any combination thereof, to be retained permanently in the office of the Director of Community Development and to be designated, as the case may be: "Official Map (or Description) of the corporate limits of the City of Bainbridge, Georgia." Photographic, typed, or other copies of such map or description certified by the City Clerk shall be admitted as evidence in all courts and shall have the same force and effect as with the original map or description.

(b) The city council may provide for the redrawing of any such map by ordinance to reflect lawful changes in the corporate boundaries. A redrawn map shall supersede for all purposes the entire map or maps which it is designated to replace.

SECTION 1.12.

Powers and construction.

(a) This city shall have all powers possible for a city to have under the present or future Constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter. This city shall have all the powers of self-government not otherwise prohibited by this charter or by general law.

(b) The powers of this city shall be construed liberally in favor of the city. The specific mention or failure to mention particular powers shall not be construed as limiting in any way the powers of this city.

SECTION 1.13.

Exercise of powers.

All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or employees shall be carried into execution as provided by this charter. If this charter makes

1 no provision, such shall be carried into execution as provided by ordinance or as provided
2 by pertinent laws of the State of Georgia.

3 **ARTICLE II**

4 **GOVERNMENT STRUCTURE**

5 **SECTION 2.10.**

6 City council creation; number; election.

7 The legislative authority of the government of this city, except as otherwise specifically
8 provided in this charter, shall be vested in a city council to be composed of a mayor and six
9 councilmembers. The city council established in this charter shall in all respects be a
10 successor to and continuation of the city governing authority under prior law. The mayor and
11 councilmembers shall be elected in the manner provided by this charter.

12 **SECTION 2.11.**

13 City councilmembers;

14 terms and qualifications for office.

15 The members of the city council shall serve for terms of four years and until their respective
16 successors are elected and qualified. No person shall be eligible to serve as mayor unless
17 such person has been a resident of the city for a period of one year immediately prior to the
18 date of the election for mayor. No person shall be eligible to serve as a councilmember
19 unless he or she has been a resident of the district for which he or she is offering as a
20 candidate for a period of one year immediately preceding the date of the election for
21 councilmembers. The person elected to serve as mayor shall continue to reside in the city
22 and each person elected to serve as councilmember shall continue to reside in the district
23 from which elected during their respective terms of office. The mayor and each
24 councilmember shall be registered and qualified to vote in municipal elections of the City of
25 Bainbridge and each of them shall meet the qualification standards required for members of
26 the Georgia House of Representatives, as are now or may in the future be prescribed by the
27 Georgia Constitution.

28 **SECTION 2.12.**

29 Vacancy; filling of vacancies; suspensions.

30 (a) Vacancies—The office of mayor or councilmember shall become vacant upon such
31 person's failing or ceasing to reside in the city or upon the occurrence of any event specified
32 by the Constitution, Title 45 of the O.C.G.A., or such other applicable laws as are or may
33 hereafter be enacted.

1 (b) Filling of vacancies—A vacancy in the office of mayor or councilmember shall be filled
 2 for the remainder of the unexpired term, if any, by appointment if less than 12 months remain
 3 in the unexpired term, otherwise by an election as provided for in Section 5.13 of this charter
 4 and Titles 21 and 45 of the O.C.G.A. or such other laws as are or may hereafter be enacted.

5 **SECTION 2.13.**

6 Compensation and expenses.

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

9 **SECTION 2.14.**

10 Conflicts of interest; holding other offices.

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

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

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

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

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

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

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

- 1 (6) Vote or otherwise participate in the negotiation or in the making of any contract with
2 any business or entity in which that person has a financial interest.
- 3 (c) Disclosure—Any elected official, appointed officer, or employee who shall have any
4 financial interest, directly or indirectly, in any contract or matter pending before or within
5 any department of the city shall disclose such interest to the city council. The mayor or any
6 councilmember who has a financial interest in any matter pending before the city council
7 shall disclose such interest and such disclosure shall be entered on the records of the city
8 council, and that person shall disqualify himself or herself from participating in any decision
9 or vote relating thereto. Any elected official, appointed officer, or employee of any agency
10 or political entity to which this charter applies who shall have any financial interest, directly
11 or indirectly, in any contract or matter pending before or within such entity shall disclose
12 such interest to the governing body of such agency or entity.
- 13 (d) Use of public property—No elected official, appointed officer, or employee of the city
14 or any agency or entity to which this charter applies shall use property owned by such
15 governmental entity for personal benefit, convenience, or profit except in accordance with
16 policies promulgated by the city council or the governing body of such agency or entity.
- 17 (e) Contracts voidable and rescindable—Any violation of this section which occurs with the
18 knowledge, express or implied, of a party to a contract or sale shall render such contract or
19 sale voidable at the option of the city council.
- 20 (f) Ineligibility of elected official—Except where authorized by law, neither the mayor nor
21 any councilmember shall hold any other elective or compensated appointive office in the city
22 or otherwise be employed by said government or any agency thereof during the term for
23 which that person was elected. No former councilmember and no former mayor shall hold
24 any compensated appointive office in the city until one year after the expiration of the term
25 for which that person was elected.
- 26 (g) Political activities of certain officers and employees—No appointed officer and no
27 employee of the city shall continue in such employment upon qualifying as a candidate for
28 nomination or election to any public office. No employee of the city shall continue in such
29 employment upon election to any public office in this city or any other public office.
- 30 (h) Penalties for violation—
- 31 (1) Any city officer or employee who knowingly conceals such financial interest or
32 knowingly violates any of the requirements of this section shall be guilty of malfeasance
33 in office or position and shall be deemed to have forfeited that person's office or position.
- 34 (2) Any officer or employee of the city who shall forfeit that person's office or position
35 as described in paragraph (1) of this subsection shall be ineligible for appointment or
36 election to or employment in a position in the city government for a period of three years
37 thereafter.

SECTION 2.15.

Inquiries and investigations.

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

SECTION 2.16.

General power and authority of the city council.

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

SECTION 2.17.

Eminent domain.

The city council is hereby empowered to acquire, construct, operate, and maintain public ways, parks, public grounds, cemeteries, markets, market houses, public buildings, libraries, sewers, drains, sewage treatment, waterworks, electrical systems, gas systems, airports, hospitals, and charitable, educational, recreational, sport, curative, corrective, detentive, penal, and medical institutions, agencies, and facilities, and any other public improvements inside or outside the city, and to regulate the use thereof, and for such purposes, property may be condemned under procedures established under general law applicable now or as provided in the future.

SECTION 2.18.

Organizational meetings.

The city council shall hold an organizational meeting at its first regularly scheduled meeting. The meeting shall be called to order by the city clerk and the oath of office shall be administered to the newly elected members as follows:

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

SECTION 2.19.

Regular and special 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 four members of the city council. Notice of such special meeting shall be served on all other members personally, or by telephone personally, at least 48 hours in advance of the meeting. Such notice to councilmembers shall not be required if the mayor and all councilmembers are present when the special meeting is called. Such notice of any special meeting may be waived by a councilmember in writing before or after such a meeting and attendance at the meeting shall also constitute a waiver of notice on any business transacted in such 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.

(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 2.21.

Quorum; voting.

The mayor and mayor pro tem and three councilmembers shall constitute a quorum and shall be authorized to transact business of the city council. In the event that both the mayor and mayor pro tem are unavailable, four councilmembers are required to be present to transact the business of the city. The mayor shall only vote in the case of a tie in which case his or her vote shall be recorded and counted towards the number of votes necessary to adopt or reject a question before the 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

1 have the right to request a roll-call vote and such vote shall be recorded in the journal.
 2 Except as otherwise provided in this charter, the affirmative vote of a majority of the
 3 councilmembers present shall be required for the adoption of any ordinance, resolution, or
 4 motion. An abstention shall be counted as an affirmative vote.

5 **SECTION 2.22.**

6 Ordinance form; procedures.

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 "It is hereby ordained by the governing authority of the City of
 10 Bainbridge..." and every 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 2.24 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 2.23.**

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 2.24.**

23 Emergencies.

24 (a) To meet a public emergency affecting life, health, property, or public peace, the city
 25 council may convene on call of the mayor or four councilmembers and may promptly adopt
 26 an 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 four
 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 still
 4 exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance
 5 in the same manner specified in this section for adoption of emergency ordinances.

6 (b) Such meetings shall be open to the public to the extent required by law and notice to the
 7 public of emergency meetings shall be made as fully as is reasonably possible in accordance
 8 with Code Section 50-14-1 of the O.C.G.A. or such other applicable laws as are or may
 9 hereafter be enacted.

10 **SECTION 2.25.**

11 Codes of technical regulations.

12 (a) The city council may adopt any standard code of technical regulations by reference
 13 thereto in an adopting ordinance. The procedure and requirements governing such adopting
 14 ordinance shall be as prescribed for ordinances generally except that: (1) the requirements
 15 of subsection (b) of Section 2.22 of this charter for distribution and filing of copies of the
 16 ordinance shall be construed to include copies of any code of technical regulations, as well
 17 as the adopting ordinance; and (2) a copy of each adopted code of technical regulations, as
 18 well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to
 19 Section 2.26 of this charter.

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

22 **SECTION 2.26.**

23 Signing; authenticating; 24 recording; codification; printing.

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

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

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

10 **SECTION 2.27.**

11 City manager; appointment;
 12 qualifications; compensation.

13 The city council shall appoint a city manager for an indefinite term and shall fix the city
 14 manager's compensation. The city manager shall be appointed solely on the basis of that
 15 person's executive and administrative qualifications.

16 **SECTION 2.28.**

17 Removal of city manager.

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

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

24 (2) Within five days after a copy of the resolution is delivered to the city manager, that
 25 person may file with the city council a written request for a public hearing. This hearing
 26 shall be held within 30 days after the request is filed. The city manager may file with the
 27 city council a written reply not later than five days before the hearing; and

28 (3) If the city manager has not requested a public hearing within the time specified in
 29 paragraph (2) of this subsection, the city council may adopt a final resolution for removal,
 30 which may be made effective immediately, by an affirmative vote of a majority of all its
 31 members. If the city manager has requested a public hearing, the city council may adopt
 32 a final resolution for removal, which may be made effective immediately, by an
 33 affirmative vote of a majority of all its members at any time after the public hearing.

34 (b) The city manager shall continue to receive the city manager's salary until the effective
 35 date of a final resolution of removal.

SECTION 2.29.

Acting city manager.

By letter filed with the city clerk, the city manager shall designate, subject to approval of the city council, a qualified city administrative officer to exercise the powers and perform the duties of city manager during the city manager's temporary absence or physical or mental disability. During such absence or disability, the city council may revoke such designation at any time and appoint another officer of the city to serve until the city manager shall return or the city manager's disability shall cease.

SECTION 2.30.

Powers and duties of the city manager.

The city manager shall be the chief executive and administrative officer of the city. The city manager shall be responsible to the city council for the administration of all city affairs placed in the city manager's charge by or under this charter. As the chief executive and administrative officer, the city manager shall:

- (1) Appoint and, when the city manager deems it necessary for the good of the city, suspend or remove all city employees and administrative officers the city manager appoints, except as otherwise provided by law or personnel ordinances adopted pursuant to this charter. The city manager may authorize any administrative officer who is subject to the city manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;
- (2) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law;
- (3) Attend all city council meetings, except for closed meetings held for the purposes of deliberating on the appointment, discipline, or removal of the city manager, and have the right to take part in discussion, but the city manager may not vote;
- (4) See that all laws, provisions of this charter, and acts of the city council, subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual operating budget and capital budget to the city council;
- (6) Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
- (7) Make such other reports as the city council may require concerning the operations of city departments, offices, and agencies subject to the city manager's direction and supervision;

1 (8) Keep the city council fully advised as to the financial condition and future needs of
 2 the city, and make such recommendations to the city council concerning the affairs of the
 3 city as the city manager deems desirable; and

4 (9) Perform other such duties as are specified in this charter or as may be required by the
 5 city council.

6 **SECTION 2.31.**

7 Council's interference with administration.

8 Except for the purpose of inquiries and investigations under Section 2.15 of this charter, the
 9 city council or its members shall deal with city officers and employees who are subject to the
 10 direction and supervision of the city manager solely through the city manager, and neither
 11 the city council nor its members shall give orders to any such officer or employee, either
 12 publicly or privately.

13 **SECTION 2.32.**

14 Election of mayor; forfeiture; compensation.

15 The mayor shall be elected and shall serve for a term of four years and until the mayor's
 16 successor is elected and qualified. The mayor shall be a qualified elector of this city, shall
 17 have been a resident of the city for 12 months prior to the election, and shall meet the same
 18 qualifications for office as members of the Georgia House of Representatives as are now or
 19 may in the future be prescribed by the Georgia Constitution. The mayor shall continue to
 20 reside in this city during the period of the mayor's service. The mayor shall forfeit the office
 21 of mayor on the same grounds and under the same procedure as for councilmembers. The
 22 compensation of the mayor shall be established in the same manner as for councilmembers.

23 **SECTION 2.33.**

24 Powers and duties of mayor.

25 The mayor shall:

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

27 (2) Represent the city in intergovernmental relations;

28 (3) Appoint members of citizen advisory boards and commissions with the advice and
 29 consent of the council;

30 (4) Be the head of the city for the purpose of service of process and for ceremonial
 31 purposes, and be the official spokesperson for the city and the chief advocate of policy;

32 (5) Have the power to administer oaths and to take affidavits; and

1 (6) Sign as a matter of course on behalf of the city all written and approved contracts,
 2 ordinances, and other instruments executed by the city which by law are required to be
 3 in writing.

4 **SECTION 2.34.**

5 Mayor pro tem.

6 The position of mayor pro tem shall be filled by a member of the city council for a one-year
 7 term. The members of the council shall rotate the position of mayor pro tem by council seat
 8 number and the term of office shall begin at the first meeting held during the month of
 9 January. If any councilmember should decline the office of mayor pro tem, the city council
 10 by majority vote shall select another member of the council to fill the seat for that term and
 11 the regular rotation shall resume at the conclusion of that term. The mayor pro tem shall
 12 assume the duties and powers of the mayor during the mayor's physical or mental disability
 13 or absence. Any such disability or absence shall be declared by a majority vote of the city
 14 council. The mayor pro tem shall sign all contracts and ordinances in which the mayor has
 15 a disqualifying financial interest as provided in Section 2.14.

16 **ARTICLE III**

17 **ADMINISTRATIVE AFFAIRS**

18 **SECTION 3.10.**

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

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

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

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

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

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

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

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

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

16 **SECTION 3.11.**

17 City attorney.

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

26 **SECTION 3.12.**

27 City clerk.

28 The city manager shall appoint a city clerk who shall not be a councilmember. The city clerk
 29 shall be custodian of the official city seal and city records; maintain city council records
 30 required by this charter; and perform such other duties as may be required by the city
 31 council.

1 **SECTION 3.13.**

2 Position classification and pay plans.

3 The city manager shall be responsible for the preparation of a position classification and pay
4 plan which shall be submitted to the city council for approval.

5 **SECTION 3.14.**

6 Personnel policies.

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

9 ARTICLE IV

10 JUDICIAL BRANCH

11 **SECTION 4.10.**

12 Creation; name.

13 There shall be a court to be known as the Municipal Court of the City of Bainbridge.

14 **SECTION 4.11.**

15 Chief judge; associate judge.

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

18 (b) No person shall be qualified or eligible to serve as a judge on the municipal court unless
19 that person shall have attained the age of 21 years and shall be a member of the State Bar of
20 Georgia and shall possess all qualifications required by law. All judges shall be appointed
21 by the city council and shall serve until a successor is appointed and qualified.

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

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

25 (e) Before assuming office, each judge shall take an oath, given by the mayor, that such
26 judge will honestly and faithfully discharge the duties of the judge's office to the best of the
27 judge's ability and without fear, favor, or partiality. The oath shall be entered upon the
28 minutes of the city council journal required in Section 2.20 of this charter.

29 **SECTION 4.12.**

30 Convening.

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

SECTION 4.13.

Jurisdiction; powers.

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

(b) The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$1,000.00 or ten days in jail.

(c) The municipal court may fix punishment for offenses within its jurisdiction not exceeding a fine of \$1,000.00 or imprisonment for six months or both such fine and imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing, as now or hereafter provided by law.

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

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

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

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

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

SECTION 4.14.

Certiorari.

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

SECTION 4.15.

Rules for court.

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

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

Applicability of general law.

All primaries and elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

SECTION 5.11.

Election of the city council and mayor.

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

(b) There shall be elected the mayor and three councilmembers at one election and at every other election thereafter. The remaining city council seats shall be filled at the election alternating with the first election so that a continuing body is created.

SECTION 5.12.

Nonpartisan elections.

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

SECTION 5.13.

Election by plurality vote.

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

SECTION 5.14.

Special elections; vacancies.

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

SECTION 5.15.

Other provisions.

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

SECTION 5.16.

Removal of officers.

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

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

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

1 (2) By an order of the Superior Court of Decatur County following a hearing on a
2 complaint seeking such removal brought by any resident of the City of Bainbridge.

3 **ARTICLE VI**

4 **FINANCE**

5 **SECTION 6.10.**

6 Property tax.

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

13 **SECTION 6.11.**

14 Millage rate; due dates; payment methods.

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

19 **SECTION 6.12.**

20 Occupation and business taxes.

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

25 **SECTION 6.13.**

26 Licenses; permits; fees.

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

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 6.18 of this charter.

SECTION 6.16.

Special assessments.

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

SECTION 6.17.

Construction; other taxes.

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

SECTION 6.18.

Collection of delinquent taxes and fees.

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

SECTION 6.19.

General obligation bonds.

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

SECTION 6.20.

Revenue bonds.

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

SECTION 6.21.

Short-term loans.

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

SECTION 6.22.

Lease-purchase contracts.

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

SECTION 6.23.

Fiscal year.

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

SECTION 6.24.

Budget ordinance.

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

SECTION 6.25.

Operating budget.

On or before a date fixed by the city council but not later than 15 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 other pertinent comments and information. The operating budget and the capital budget provided for in Section 6.29 of this charter, 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 6.26.

Action by city council on budget.

(a) The councilmembers 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 the last day of the last month of the current fiscal 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 estimated revenues in detail by sources and making appropriations according to fund and by organizational unit, purpose, or activity as set out in the budget preparation ordinance adopted pursuant to Section 6.24 of this charter.

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

SECTION 6.27.

Levy of taxes.

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

SECTION 6.28.

Changes in appropriations.

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

SECTION 6.29.

Capital improvements.

(a) On or before the date fixed by the city council, but not later than 15 days prior to the beginning of each fiscal year, the city manager shall submit to the city council a proposed capital improvements plan with a recommended capital budget containing the means of financing the improvements proposed for the ensuing fiscal year. The city council shall have power to accept, with or without amendments, or reject the proposed plan and budget. The city council shall not authorize an expenditure for the construction of any building, structure, work, or improvement unless the appropriations for such project are included in the capital budget, except to meet a public emergency as provided in Section 2.24 of this charter.

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

SECTION 6.30.

Audits.

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

SECTION 6.31.

Procurement and property management.

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

- (1) It is in writing;
- (2) It is drawn by or submitted and reviewed by the city attorney and, as a matter of course, is signed by the city attorney to indicate such drafting or review; and
- (3) It is made or authorized by the city council and such approval is entered in the city council journal of proceedings pursuant to Section 2.20 of this charter.

SECTION 6.32.

Purchasing.

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

SECTION 6.33.

Sale and lease of property.

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

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

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

ARTICLE VII

GENERAL PROVISIONS

SECTION 7.10.

Bonds for officials.

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

SECTION 7.11.

Prior ordinances.

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

SECTION 7.12.

Existing personnel and officers.

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

SECTION 7.13.

Pending matters.

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

SECTION 7.14.

Construction and definitions.

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

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

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

SECTION 7.15.

Severability.

If any article, section, subsection, paragraph, sentence, or part thereof of this charter shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair other parts of this charter unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional, it being the

1 legislative intent in enacting this charter that each article, section, subsection, paragraph,
2 sentence, or part thereof be enacted separately and independent of each other.

3 **SECTION 7.16.**

4 Specific repealer.

5 An Act to create a new charter for the City of Bainbridge, approved December 16, 1901 (Ga.
6 L. 1901, p. 321) and all amendatory Acts thereto are repealed.

7 **SECTION 7.17.**

8 Effective date.

9 This Act shall become effective on July 1, 2007.

10 **SECTION 7.18.**

11 General repealer.

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