

House Bill 644

By: Representatives Mills of the 25th and Rogers of the 26th

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the City of Oakwood; to provide for incorporation, boundaries,
2 and powers of the city; to provide for general powers and limitations on powers; to provide
3 for a governing authority of such city and the powers, duties, authority, election, terms,
4 method of filling vacancies, compensation, expenses, qualifications, prohibitions, conflicts
5 of interest, suspension, and removal from office relative to members of such governing
6 authority; to provide for inquiries and investigations; to provide for organization and
7 procedures; to provide for ordinances; to provide for the office of mayor and mayor pro
8 tempore and certain duties and powers relative thereto; to provide for administrative
9 responsibilities; to provide for boards, commissions, and authorities; to provide for a city
10 manager, a city attorney, a city clerk, and other personnel; to provide for a municipal court
11 and the judge or judges thereof; to provide for the court's jurisdiction, powers, practices, and
12 procedures; to provide for ethics and disclosures; to provide for elections; to provide for
13 taxation, licenses, and fees; to provide for franchises, service charges, and assessments; to
14 provide for bonded and other indebtedness; to provide for accounting and budgeting; to
15 provide for city contracts and purchasing; to provide for bonds for officials; to provide for
16 prior ordinances and rules, pending matters, and existing personnel; to provide for penalties;
17 to provide for definitions and construction; to provide for other matters relative to the
18 foregoing; to repeal a specific Act; to provide for effective dates; to provide for severability;
19 to repeal conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

- 1 (2) Appropriations and expenditures. To make appropriations for the support of the
2 government of the city; to authorize the expenditure of money for any purposes
3 authorized by this charter and for any purpose for which a municipality is authorized by
4 the laws of the State of Georgia; and to provide for the payment of expenses of the city;
- 5 (3) Building regulation. To regulate and to license the erection and construction of
6 buildings and all other structures; to adopt building, housing, plumbing, electrical, gas,
7 and heating and air conditioning codes; and to regulate all housing and building trades
8 to the extent permitted by general law;
- 9 (4) Business regulation and taxation. To levy and to provide for the collection of
10 regulatory fees and taxes on privileges, occupations, trades, and professions as authorized
11 by Title 48 of the O.C.G.A. or such other applicable laws as are or may hereafter be
12 enacted; to permit and regulate the same; to provide for the manner and method of
13 payment of such regulatory fees and taxes; and to revoke such permits after due process
14 for failure to pay any city taxes or fees;
- 15 (5) Condemnation. To condemn property, inside or outside the corporate limits of the
16 city, for present or future use and for any corporate purpose deemed necessary by the city
17 council, utilizing procedures enumerated in Title 22 of the O.C.G.A. or such other
18 applicable laws as are or may hereafter be enacted;
- 19 (6) Contracts. To enter into contracts and agreements with other governmental entities
20 and with private persons, firms, and corporations;
- 21 (7) Emergencies. To establish procedures for determining and proclaiming that an
22 emergency situation exists within or without the city and to make and carry out all
23 reasonable provisions deemed necessary to deal with or meet such an emergency for the
24 protection, safety, health, or well-being of the citizens of the city;
- 25 (8) Environmental protection. To protect and preserve the natural resources,
26 environment, and vital areas of the city, the region, and the state through the preservation
27 and improvement of air quality, the restoration and maintenance of water resources, the
28 control of erosion and sedimentation, the management of storm water, the management
29 of solid and hazardous waste, and other necessary actions for the protection of the
30 environment;
- 31 (9) Ethics. To adopt ethics ordinances and regulations governing the conduct of
32 municipal elected officials, appointed officials and employees, establishing procedures
33 for ethics complaints, and setting forth penalties for violations of such rules and
34 procedures;
- 35 (10) Fire regulations. To fix and establish fire limits and from time to time to extend,
36 enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with

1 general law, relating to both fire prevention and detection and to fire fighting; and to
2 prescribe penalties and punishment for violations thereof;

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

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

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

16 (14) Health and sanitation. To prescribe standards of health and sanitation and to provide
17 for the enforcement of such standards;

18 (15) Jail sentences. To provide that persons given jail sentences in the city's court may
19 work out such sentences in any public works or on the streets, roads, drains, and other
20 public property in the city; to provide for the use of pretrial diversion and any alternative
21 sentencing allowed by law; or to provide for commitment of such persons to any county
22 work camp or county jail by agreement with the appropriate county officials;

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

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

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

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

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

1 regulations, and standards and conditions of service applicable to the service to be
2 provided by the franchise grantee or contractor, insofar as not in conflict with valid
3 regulations of the Public Service Commission;

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

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

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

18 (34) Security, welfare, and convenience. To make, ordain, and establish bylaws,
19 ordinances, rules, and regulations as shall appear necessary for the security, welfare,
20 convenience, and interest of the city and the inhabitants thereof and for preserving the
21 health, peace, order, and good government of the city;

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

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

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

1 conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows
 2 of any kind, by taxation or otherwise; to license, tax, regulate, or prohibit professional
 3 fortune-telling, palmistry, adult bookstores, and massage parlors;

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

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

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

10 (41) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the
 11 number of such vehicles; to require the operators thereof to be licensed; to require public
 12 liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to
 13 regulate the parking of such vehicles;

14 (42) Urban redevelopment. To organize and operate an urban redevelopment program;
 15 and

16 (43) Other powers. To exercise and enjoy all other powers, functions, rights, privileges,
 17 and immunities necessary or desirable to promote or protect the safety, health, peace,
 18 security, good order, comfort, convenience, or general welfare of the city and its
 19 inhabitants; to exercise all implied powers necessary or desirable to carry into execution
 20 all powers granted in this charter as fully and completely as if such powers were fully
 21 stated herein; and to exercise all powers now or in the future authorized to be exercised
 22 by other municipal governments under other laws of the State of Georgia; and any listing
 23 of particular powers in this charter shall not be held to be exclusive of others or restrictive
 24 of general words and phrases granting powers but shall be held to be in addition to such
 25 powers unless expressly prohibited to municipalities under the Constitution or applicable
 26 laws of the State of Georgia.

27 **SECTION 1.04.**

28 Exercise of powers.

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

1 charter, Title 45 of the O.C.G.A., or the general laws of the State of Georgia. A vacancy in
2 the office of mayor or councilmember shall be filled for the remainder of the unexpired term
3 by a special election if such vacancy occurs 12 months or more prior to the expiration of the
4 term of that office. If such vacancy occurs within 12 months of the expiration of the term of
5 that office, the mayor shall nominate and the city council shall confirm a successor for the
6 remainder of the term. This provision shall also apply to a temporary vacancy created by the
7 suspension from office of the mayor or any councilmember.

8 **SECTION 2.03.**

9 Nonpartisan elections.

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

12 **SECTION 2.04.**

13 Election by majority vote.

14 The candidates for mayor and councilmember who receive a majority of the votes cast in the
15 applicable election shall be elected to a term of office. In the event no candidate receives a
16 majority of the votes cast in said election, a run-off election shall be held between the two
17 candidates receiving the highest number of votes. Such runoff shall be held at the time
18 specified by state election law unless such run-off date is postponed by court order.

19 **SECTION 2.05.**

20 Applicability of general laws; qualifying; other provisions.

21 All primaries and elections shall be held and conducted in accordance with Chapter 2 of Title
22 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended. Except as
23 otherwise provided by this charter, the city council shall, by ordinance or resolution,
24 prescribe such rules and regulations as it deems appropriate, including, but not limited to, the
25 establishment of qualifying fees, to fulfill any options and duties under Chapter 2 of Title 21
26 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

SECTION 2.06.

Compensation and expenses.

The mayor and councilmembers shall receive compensation and expenses for their services as provided by ordinance. Such salary shall be paid from municipal funds in monthly installments. The city council may provide by ordinance for the provision of insurance, retirement, workers' compensation, and other employee benefits to the mayor and councilmembers and may provide by ordinance for the reimbursement of expenses actually and necessarily incurred by the mayor and councilmembers in carrying out their official duties.

SECTION 2.07.

Conflicts of interest; holding other offices.

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

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

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

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

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

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

- 1 (5) Represent other private interests in any action or proceeding against this city or any
2 portion of its government; or
- 3 (6) Vote or otherwise participate in the negotiation or in the making of any contract with
4 any business or entity in which the official has financial interest.
- 5 (c) Disclosure. Any elected official, appointed officer, or employee who shall have any
6 financial interest, directly or indirectly, in any contract or matter pending before or within
7 any department of the city shall disclose such interest to the city council. The mayor or any
8 councilmember who has a financial interest in any matter pending before the city council
9 shall disclose such interest and such disclosure shall be entered on the records of the city
10 council, and that official shall disqualify himself or herself from participating in any decision
11 or vote relating thereto. Any elected official, appointed officer, or employee of any agency
12 or political entity to which this charter applies who shall have any financial interest, directly
13 or indirectly, in any contract or matter pending before or within such entity shall disclose
14 such interest to the governing body of such agency or entity.
- 15 (d) Use of public property. No elected official, appointed officer, or employee of the city or
16 any agency or entity to which this charter applies shall use property owned by such
17 governmental entity for personal benefit, convenience, or profit except in accordance with
18 policies promulgated by the city council or the governing body of such agency or entity.
- 19 (e) Contracts voidable and rescindable. Any violation of this section which occurs with the
20 knowledge, express or implied, of a party to a contract or sale shall render said contract or
21 sale voidable at the option of the city council.
- 22 (f) Ineligibility of elected official. Except where authorized by law, neither the mayor nor
23 any councilmember shall hold any other elective or compensated appointive office in the city
24 or otherwise be employed by said government or any agency thereof during the term for
25 which that official was elected. No former mayor and no former councilmember shall hold
26 any compensated appointive office in the city until one year after the expiration of the term
27 for which that official was elected.
- 28 (g) No elected official shall serve as an officer or on the board of a homeowners' association
29 located within the city limits of the City of Oakwood.
- 30 (h) No member of an elected official's immediate family shall serve as an employee of the
31 city.
- 32 (i) Political activities of certain officers and employees. No city employee shall continue in
33 that position upon election to any public office in this city or any other public office whose
34 duties are inconsistent, incompatible, or in conflict with the duties of said city employee.
35 Such determination shall be made by the mayor and city council either immediately upon
36 election or at any time such conflict may arise.
- 37 (j) Penalties for violation.

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

4 (2) Any officer or employee of the city who shall forfeit an office or position as
 5 described in paragraph (1) of this subsection shall be ineligible for appointment or
 6 election to or employment in a position in the city government for a period of three years
 7 thereafter.

8 **SECTION 2.08.**

9 Inquiries and investigations.

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

15 **SECTION 2.09.**

16 Meetings and mayor pro tempore.

17 (a) The city council shall meet on the first working day in January immediately following
 18 each regular municipal election. The meeting shall be called to order by the mayor-elect (or
 19 the mayor if the position of mayor did not stand for election) and the oath of office shall be
 20 administered to the newly elected mayor or councilmembers, as appropriate, by the city
 21 clerk. The oath shall, to the extent that it comports with federal and state law, be as follows:

22 "I do solemnly swear or affirm that I will faithfully execute the office of [councilmember
 23 or mayor as the case may be] of the City of Oakwood and will to the best of my ability
 24 support and defend the Constitution of the United States, the Constitution of Georgia, and
 25 the charter, ordinances, and regulations of the City of Oakwood. I am not the holder of any
 26 unaccounted for public money due this state or any political subdivision or authority
 27 thereof. I am not the holder of any office of trust under the government of the United
 28 States, any other state, or any foreign state which I by the laws of the State of Georgia am
 29 prohibited from holding. I am otherwise qualified to hold said office according to the
 30 Constitution and laws of Georgia. I have been a resident of my district and the City of
 31 Oakwood for the time required by the Constitution and laws of this state and by the
 32 municipal charter of the City of Oakwood. I will perform the duties of my office in the best

1 interest of the City of Oakwood to the best of my ability without fear, favor, affection,
2 reward, or expectation thereof."

3 (b) The position of mayor pro tempore shall be an annual appointment and shall rotate
4 between Post 1 through Post 5 sequentially beginning with Post 1 in January, 2008. Should
5 any councilmember so appointed decline for any reason to serve the annual appointment,
6 then the appoint shall rotate to the next Post position. The mayor pro tempore shall assume
7 the duties and powers of the mayor during the mayor's disability or absence except that the
8 mayor pro tempore shall continue to vote as a councilmember and may not exercise the
9 mayor's prerogative to vote in the case of a tie. During the mayor's disability or absence, the
10 mayor pro tempore may veto any action of the city council. If both the mayor and the mayor
11 pro tempore are absent because of sickness or disqualification, any one of the remaining
12 councilmembers, chosen by the members present, shall be clothed with all the rights and
13 privileges of the mayor and shall perform the mayor's duties in the same manner as the
14 mayor pro tempore.

15 (c) The city council shall, at least once a month, hold regular meetings at such times and
16 places as prescribed by ordinance. The city council may recess any regular meeting and
17 continue such meeting on any weekday or hour it may fix and may transact any business at
18 such continued meeting as may be transacted at any regular meeting.

19 (d) Special meetings of the city council may be held on the call of the mayor or three
20 councilmembers. Notice of such special meetings shall be delivered to all councilmembers
21 and the mayor personally, by registered mail, or by electronic means at least 24 hours in
22 advance of the meeting. Such notice to councilmembers shall not be required if the mayor
23 and all councilmembers are present when the special meeting is called. Such notice of any
24 special meeting may be waived by the mayor or a councilmember in writing before or after
25 such a meeting and attendance at the meeting shall also constitute a waiver of notice. The
26 notice of such special meeting shall state what business is to be transacted at the special
27 meeting. Only the business stated in the call may be transacted at the special meeting.

28 **SECTION 2.10.**

29 Quorum; voting.

30 Three councilmembers shall constitute a quorum and shall be authorized to transact business
31 for the city council. Voting on the adoption of ordinances shall be taken by voice vote and
32 the yeas and nays shall be recorded in the minutes, but on the request of any councilmember
33 there shall be a roll-call vote. In order for any ordinance, resolution, motion, or other action
34 of the city council to be adopted, the measure must receive at least three affirmative votes
35 and must receive the affirmative votes of a majority of those voting. No councilmember shall

1 abstain from voting on any matter properly brought before the city council for official action
2 except when such councilmember has a conflict of interest which is disclosed in writing prior
3 to or at the meeting and made a part of the minutes. Any councilmember present and eligible
4 to vote on a matter and refusing to do so for any reason other than a properly disclosed and
5 recorded conflict of interest shall be deemed to have acquiesced or concurred with the
6 members of the majority who did vote on the question involved. The mayor shall vote only
7 in the case of a tie or in the case where his or her vote will provide the third affirmative vote
8 required for approval of a matter.

9 **SECTION 2.11.**

10 General power and authority of the city council.

11 (a) Except as otherwise provided by law or by this charter, the city council shall be vested
12 with all the powers of government of the City of Oakwood as provided by Article I of this
13 charter.

14 (b) In addition to all other powers conferred upon it by law, the city council shall have the
15 authority to adopt and provide for the execution of such ordinances, resolutions, rules, and
16 regulations not inconsistent with this charter and the Constitution and laws of the State of
17 Georgia which it shall deem necessary, expedient, or helpful for the peace, good order,
18 protection of life and property, health, welfare, sanitation, comfort, convenience, prosperity,
19 or well-being of the inhabitants of the City of Oakwood and may enforce such ordinances
20 by imposing penalties for violation thereof.

21 **SECTION 2.12.**

22 Eminent domain.

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

SECTION 2.13.

Administrative and service departments.

(a) Except for the office of city manager, the city council, by ordinance, may establish, abolish, merge, or consolidate offices, positions of employment, departments, and agencies of the city as it shall deem necessary for the proper administration of the affairs and government of the city. The city council shall prescribe the functions and duties of existing departments, offices, and agencies or of any departments, offices, and agencies hereinafter created or established; may provide that the same person shall fill any number of offices and positions of employment; and may transfer or change the functions and duties of offices, positions of employment, departments, and agencies of the city.

(b) The operations and responsibilities of each department now or hereafter established in the city shall be distributed among such divisions or bureaus as may be provided by ordinance of the city council. Each department shall consist of such officers, employees, and positions as may be provided by this charter or by ordinance and shall be subject to the general supervision and guidance of the mayor and city council.

SECTION 2.14.

Boards, commissions, and authorities.

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

(b) No member of any board, commission, or authority of the city shall hold any elective office in the city. Councilmembers and the mayor, however, may serve as ex officio members of such boards, commissions, or authorities without a vote.

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

(d) No member of any board, commission, or authority shall assume office until he or she shall have executed and filed with the designated officer of the city an oath obligating himself or herself to faithfully and impartially perform the duties of his or her office, such oath to be prescribed by ordinance of the city council and administered by the mayor.

(e) Any member of a board, commission, or authority may be removed from office for cause by a vote of a majority of the members of the city council.

- 1 (f) Members of boards, commissions, and authorities may receive such compensation and
 2 expenses in the performance of their official duties as prescribed by ordinance.
- 3 (g) Except as otherwise provided by this charter or by applicable state law, each board,
 4 commission, or authority of the city shall elect one of its members as chairperson and one
 5 member as vice chairperson for terms of one year and may elect as its secretary one of its
 6 own members or may appoint as secretary an employee of the city. Each board, commission,
 7 or authority of the city may establish such bylaws, rules, and regulations not inconsistent
 8 with this charter, ordinances of the city, or applicable state law as it deems appropriate and
 9 necessary for the conduct of its affairs, copies of which shall be filed with the designated
 10 officer of the city.

11 **SECTION 2.15.**

12 Ordinance form; procedures; emergencies.

- 13 (a) Every proposed ordinance and resolution shall be introduced in writing and the city
 14 council shall have the authority to approve, disapprove, or amend the same. No ordinance
 15 shall contain a subject which is not expressed in its title. The enacting clause shall be: "It is
 16 hereby ordained by the City Council of the City of Oakwood, Georgia." A resolution may
 17 be passed at the time it is offered but an ordinance shall not be adopted until the title of said
 18 ordinance shall have been read at two city council meetings, provided that the beginning of
 19 said meetings shall be not less than 24 hours nor more than 120 days apart. This requirement
 20 of two readings shall not apply to emergency ordinances or to ordinances adopted at the first
 21 business meeting of the city council in a calendar year.
- 22 (b) An ordinance may be introduced by any councilmember and be read at a regular or
 23 special meeting of the city council. Ordinances shall be considered and adopted or rejected
 24 by the city council in accordance with the rules which it shall establish. Upon introduction
 25 of any ordinance, the clerk shall as soon as possible distribute a copy to the mayor and to
 26 each councilmember and shall file a reasonable number of copies in the office of the clerk
 27 and at such other public places as the city council may designate.
- 28 (c) Emergency orders.
- 29 (1) To meet a public emergency affecting life, health, property, or public peace, the city
 30 council may convene on call of the mayor or three councilmembers and promptly adopt
 31 an emergency ordinance, but such ordinance may not levy taxes; grant, renew, or extend
 32 a franchise; regulate the rate charged by any public utility for its services, or authorize the
 33 borrowing of money except for loans to be repaid within 30 days. An emergency
 34 ordinance shall be introduced in the form prescribed for ordinances generally except that
 35 it shall be plainly designated as an emergency ordinance and shall contain, after the

1 enacting clause, a declaration stating that an emergency exists and describing the
 2 emergency in clear and specific terms. An emergency ordinance may be adopted, with
 3 or without amendment, or rejected at the meeting at which it is introduced but the
 4 affirmative vote of at least three councilmembers shall be required for adoption. It shall
 5 become effective upon adoption or at such later time as it may specify. Every emergency
 6 ordinance shall automatically stand repealed 30 days following the date upon which it
 7 was adopted, but this shall not prevent reenactment of the ordinance in the manner
 8 specified in this section if the emergency still exists. An emergency ordinance may also
 9 be repealed by adoption of a repealing ordinance in the same manner specified in this
 10 section for adoption of emergency ordinances.

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

15 (d) The catchlines of sections of this charter or any ordinance printed in boldface type,
 16 italics, or otherwise are intended as mere catchwords to indicate the contents of the section,
 17 and:

18 (1) Shall not be deemed or taken to be titles of such sections or as any part of the section;
 19 and

20 (2) Shall not be so deemed when any of such sections, including the catchlines, are
 21 amended or reenacted unless expressly provided to the contrary. Furthermore, the
 22 chapter, article, and section headings contained in this charter shall not be deemed to
 23 govern, limit, or modify or in any manner affect the scope, meaning, or intent of the
 24 provisions of any chapter, article, or section hereof.

25 (e) The city council may, by ordinance or resolution, adopt rules and bylaws to govern the
 26 conduct of its business, including procedures and penalties for compelling the attendance of
 27 absent members. Such rules may include punishment for contemptuous behavior conducted
 28 in the presence of the city council.

29 **SECTION 2.16.**

30 Action requiring an ordinance.

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

- 1 (1) Preside at all meetings of the city council;
- 2 (2) Be the head of the city for the purpose of service of process and for ceremonial
3 purposes and be the official spokesperson for the city and the advocate of policy;
- 4 (3) Sign as a matter of course on behalf of the city all written and approved contracts,
5 ordinances, resolutions, and other instruments executed by the city which by law are
6 required to be in writing;
- 7 (4) See that all laws and ordinances of the city are faithfully executed;
- 8 (5) Vote on any motion, resolution, ordinance, or other question before the city council
9 only as provided in Section 2.10 of this charter and vote on any matter before a
10 committee on which he or she serves;
- 11 (6) Obtain short-term loans in the name of the city when authorized by the city council
12 to do so;
- 13 (7) Appoint councilmembers to oversee and report on the functions of the various
14 departments of the city;
- 15 (8) Require the city manager to meet with him or her at a time and place designated for
16 consultation and advice on the affairs of the city;
- 17 (9) Name qualified residents of the city to boards and commissions with approval of the
18 city council;
- 19 (10) Make recommendations with respect to the employment or termination of city
20 employees;
- 21 (11) Prepare or have prepared an agenda for each meeting of the city council which shall
22 include all business submitted by the mayor, any councilmember, the city manager, and
23 the city attorney; and
- 24 (12) Fulfill and perform such other duties as are imposed by this charter and duly
25 adopted ordinances.

26 **SECTION 3.02.**

27 City manager; appointment, qualification, and compensation.

28 The mayor shall appoint, subject to confirmation by the city council, for an indefinite term,
29 an officer whose title shall be the "city manager"; and the city manager shall serve at the
30 pleasure of the city council. The city manager shall be appointed without regard to political
31 beliefs and solely on the basis of his or her executive and administrative qualifications with
32 special reference to his or her educational background and actual experience in, and
33 knowledge of, the duties of office as hereinafter prescribed.

1 expenditures for the ensuing year, showing in as much detail as practicable the amounts
2 allotted to each department of the city government and the reasons for such estimated
3 expenditures;

4 (10) Keep the city council at all times fully advised as to the financial condition and
5 needs of the city;

6 (11) Make a full written report to the city council on the first of each month showing the
7 operations and expenditures of each department of the city government for the preceding
8 month; and a synopsis of such reports shall be published by the city clerk;

9 (12) Fix all salaries and compensation of city employees in accordance with the city
10 budget and the city pay and classification plan; and

11 (13) Perform such other duties as may be prescribed by this charter or required by
12 ordinance or resolution of the city council.

13 **SECTION 3.05.**

14 Council interference with administration.

15 Except for the purpose of inquiries and investigations under Section 2.08 of this charter, the
16 city council or its members shall deal with city officers and employees who are subject to the
17 direction or supervision of the city manager solely through the city manager and neither the
18 city council nor its members shall give orders to any such officer or employee, either publicly
19 or privately.

20 **SECTION 3.06.**

21 City manager; removal.

22 (a) The mayor and city council may remove the city manager from office in accordance with
23 the following procedures:

24 (1) The city council shall adopt by affirmative vote of a majority of all its members a
25 preliminary resolution removing the city manager and may suspend the city manager
26 from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered
27 promptly to the city manager;

28 (2) Within five days after a copy of the resolution is delivered to the city manager, he or
29 she may file with the city clerk acting for the city council a written request for a public
30 hearing. This hearing shall be held at a city council meeting not earlier than 15 days nor
31 later than 30 days after the request is filed. The city manager may file with the city
32 council a written reply not later than five days before the hearing; and

1 (3) The city council may adopt a final resolution of removal, which may be made
 2 effective immediately, by affirmative vote of four of its members at any time after five
 3 days from the date when a copy of the preliminary resolution was delivered to the city
 4 manager, if he or she has not requested a public hearing, or at any time after the public
 5 hearing if he or she has requested one.

6 (b) The city manager shall continue to receive his or her salary until the effective date of a
 7 final resolution of removal and, unless he or she has been convicted of a felony at that time,
 8 he or she shall be given not less than 60 days' severance pay. The action of the city council
 9 in suspending or removing the city manager shall not be subject to review by any court or
 10 agency.

11 (c) If the city manager becomes disabled and is unable to carry out the duties of the office
 12 or if the city manager dies, the acting city manager shall perform the duties of the city
 13 manager until the city manager's disability is removed or until the city manager is replaced.
 14 Removal of the city manager because of disability shall be carried out in accordance with the
 15 provisions of subsection (a) of this section.

16 **SECTION 3.07.**

17 Acting city manager.

18 (a) The city manager may designate in writing any administrative employee of the city who
 19 shall exercise all powers, duties, and functions of the city manager during the city manager's
 20 temporary absence from the city or during the city manager's disability. If such designation
 21 has not been made and the city manager is absent from the city or unable to perform the
 22 duties of the office or to make such designation, the city council may, by resolution, appoint
 23 any qualified administrative employee of the city to perform the powers, duties, and
 24 functions of the city manager until the city manager shall return to the city, the disability
 25 ceases, or the city council appoints a new city manager.

26 (b) In the event of a vacancy in the office of city manager, the city council may designate
 27 a person as acting city manager who shall exercise all powers, duties, and functions of the
 28 city manager until a city manager is appointed.

29 **SECTION 3.08.**

30 City attorney.

31 The mayor shall nominate and the city council shall confirm by majority vote a city attorney,
 32 together with such assistant city attorneys as may be deemed appropriate, and shall provide
 33 for the payment of such attorney or attorneys for services rendered to the city. The city

1 attorney shall be responsible for representing and defending the city in all litigation in which
2 the city is a party; may be the prosecuting officer in the municipal court; shall attend the
3 meetings of the city council as directed; shall advise the city council, mayor, other officers,
4 and employees of the city concerning legal aspects of the city's affairs and shall perform
5 such other duties as may be required by virtue of his or her position as city attorney. The city
6 attorney shall review all contracts of the city but shall not have the power to bind the city.

7 **SECTION 3.09.**

8 City clerk.

9 The city manager shall designate a city clerk, subject to confirmation by majority vote of the
10 city council, to keep a journal of the proceedings of the city council; to maintain in a safe
11 place all records and documents pertaining to the affairs of the city; and to perform such
12 duties as may be required by law or ordinance or as the mayor or city manager may direct.

13 **SECTION 3.10.**

14 City tax collector.

15 The city manager shall designate a city tax collector, subject to confirmation by majority vote
16 of the city council, to collect all taxes, licenses, fees, and other moneys belonging to the city
17 subject to the provisions of this charter and the ordinances of the city; and the city tax
18 collector shall diligently comply with and enforce all general laws of the State of Georgia
19 relating to the collection, sale, or foreclosure of taxes by municipalities.

20 **SECTION 3.11.**

21 City accountant.

22 The city manager shall designate a city accountant, subject to confirmation by majority vote
23 of the city council, to perform the duties of an accountant.

24 **SECTION 3.12.**

25 Consolidation of functions.

26 The city manager, with the approval of the city council, may consolidate any two or more of
27 the positions of city clerk, city tax collector, and city accountant or any other positions or
28 may assign the functions of any one or more of such positions to the holder or holders of any
29 other positions. The city manager may also, with the approval of the city council, perform

1 all or any part of the functions of any of the positions or offices in lieu of the appointment
2 of other persons to perform the same.

3 **SECTION 3.13.**

4 Position classification and pay plans; employment at will.

5 The city manager shall be responsible for the preparation of a position classification and a
6 pay plan which shall be submitted to the city council for approval. Said plan may apply to
7 all employees of the City of Oakwood and any of its agencies and offices. When a pay plan
8 has been adopted by the city council, neither the city council nor the city manager shall
9 increase or decrease the salaries of individual employees except in conformity with such pay
10 plan or pursuant to an amendment of said pay plan duly adopted by the city council. Except
11 as otherwise provided in this charter, all employees of the city shall be subject to removal or
12 discharge, with or without cause, at any time.

13 **ARTICLE IV**
14 **JUDICIAL BRANCH**

15 **SECTION 4.01.**

16 Creation.

17 There is established a court to be known as the Municipal Court of the City of Oakwood
18 which shall have jurisdiction and authority to try offenses against the laws and ordinances
19 of said city and to punish for a violation of the same. Such court shall have the power to
20 enforce its judgments by the imposition of such penalties as may be provided by law,
21 including ordinances of the city; to punish witnesses for nonattendance and to punish also
22 any person who may counsel or advise, aid, encourage, or persuade another whose testimony
23 or material is desired in any proceeding before said court to go or move beyond the reach of
24 the process of the court; and to try all offenses within the territorial limits of the city
25 constituting traffic cases which, under the laws of the State of Georgia, are placed within the
26 jurisdiction of municipal courts to the extent of, and in accordance with, the provisions of
27 such laws and all laws subsequently enacted amendatory thereof. Said court shall be presided
28 over by the judge of said court. In the absence or disqualification of the judge, the judge pro
29 tempore shall preside and shall exercise the same powers and duties as the judge when so
30 acting.

SECTION 4.02.

Judge.

(a) No person shall be qualified or eligible to serve as judge unless he or she shall have attained the age of 25 years and shall have been a member of the State Bar of Georgia for a minimum of three years. The judge shall be appointed by resolution of the city council. The compensation of the judge shall be fixed by the city council. The position of judge created in this article shall not be a full-time position and the person serving in said position may engage in the private practice of law.

(b) The judge pro tempore shall serve as requested by the judge, shall have the same qualifications as the judge, shall be appointed by resolution of the city council, and shall take the same oath as the judge.

(c) Before entering on duties of his or her office, the judge and judge pro tempore shall take an oath before an officer duly authorized to administer oaths in this state declaring that he or she will truly, honestly, and faithfully discharge the duties of his or her office to the best of his or her ability without fear, favor, or partiality. The oath shall be entered upon the minutes of the city council.

(d) The judge, or judge pro tempore, shall serve for a term of four years but may be removed from the position by a two-thirds' vote of the entire membership of the city council or upon action taken by the State Judicial Qualifications Commission for:

(1) Willful misconduct in office;

(2) Willful and persistent failure to perform duties;

(3) Habitual intemperance;

(4) Conduct prejudicial to the administration of justice which brings the judicial office into disrepute; or

(5) Disability seriously interfering with the performance of duties, which is, or is likely to become, of a permanent character.

SECTION 4.03.

Convening.

Said court shall be convened at such times as designated by ordinance or at such times as deemed necessary by the judge to keep current the dockets thereof.

SECTION 4.04.

Jurisdiction; powers.

(a) The municipal court shall try and punish for crimes against the City of Oakwood and for violation of its ordinances. The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$200.00 or imprisonment for 15 days. The municipal court may fix punishment for offenses within its jurisdiction to the full extent allowed by state law.

(b) The municipal court shall have authority to establish a schedule of fees to defray the cost of operation.

(c) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as security for appearances of persons charged with violations. Whenever any person shall give bail for his or her appearance and shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge presiding at such time and an execution issued thereon by serving the defendant and his or her 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 of Oakwood or the property so deposited shall have a lien against it for the value forfeited.

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

(e) The municipal court shall have the authority to administer oaths and to perform all other acts necessary or proper to the conduct of said court.

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

(g) The municipal court is specifically vested with the entire judicial jurisdiction and judicial powers throughout the entire area of the City of Oakwood granted by state laws generally to municipal courts and particularly by such laws as authorize the abatement of nuisances.

SECTION 4.05.

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

1 the sanction of a judge of the Superior Court of Hall County under the laws of the State of
2 Georgia regulating the granting and issuance of writs of certiorari.

3 **SECTION 4.06.**

4 Rules for court.

5 With the approval of the city council, the judge shall have full power and authority to make
6 reasonable rules and regulations necessary and proper to secure the efficient and successful
7 administration of the municipal court.

8 **ARTICLE V**

9 **FINANCE AND FISCAL**

10 **SECTION 5.01.**

11 Fiscal year.

12 The city council shall set the fiscal year by ordinance. Said fiscal year shall constitute the
13 budget year and the year for financial accounting and reporting of each and every office,
14 department, institution, agency, and activity of the city government unless otherwise
15 provided by state or federal law.

16 **SECTION 5.02.**

17 Preparation of budgets.

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

22 **SECTION 5.03.**

23 Submission of operating budget to city council.

24 On or before a date fixed by the city council but not later than 30 days prior to the beginning
25 of each fiscal year, the city manager shall, after review and comment by the mayor, submit
26 to the city council a proposed operating budget for the ensuing fiscal year. The budget shall
27 be accompanied by a message from the city manager containing a statement of the general
28 fiscal policies of the city, the important features of the budget, explanations of major changes

1 recommended for the next fiscal year, a general summary of the budget, and such other
2 comments and information as he or she may deem pertinent. The operating budget and the
3 capital improvements budget, the budget message, and all supporting documents shall be
4 filed in the office of the city manager and shall be open to public inspection.

5 **SECTION 5.04.**

6 Action by city council on budget.

7 The city council may amend the operating budget proposed by the city manager except that
8 the budget, as finally amended and adopted, must provide for all expenditures required by
9 law and this charter and for all debt service requirements for the ensuing fiscal year; and the
10 total appropriations from any fund shall not exceed the estimated fund balance, reserves, and
11 revenues constituting the fund availability of such fund.

12 **SECTION 5.05.**

13 Audits.

14 (a) There shall be an annual independent audit of all city accounts, funds, and financial
15 transactions by a certified public accountant selected by the city council. The audit shall be
16 conducted according to generally accepted accounting principles. Any audit of any funds by
17 the state or federal government may be accepted as satisfying the requirements of this
18 charter. Copies of all audit reports shall be available at printing cost to the public.

19 (b) As a minimum, all audits and budgets of the city shall satisfy the requirements of
20 Chapter 81 of Title 36 of the O.C.G.A., relating to local government audits and budgets.

21 **SECTION 5.06.**

22 Homestead exemptions.

23 Any homestead exemptions applicable to ad valorem taxes levied by the city shall be as
24 provided by Act of the General Assembly pursuant to Article VII, Section II, Paragraph II
25 of the Constitution of Georgia.

1

ARTICLE VI

2

GENERAL PROVISIONS

3

SECTION 6.01.

4

Severability.

5 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared

6 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other

7 sections, subsections, sentences, clauses, or phrases of this Act which shall remain of full

8 force and effect as if the section, subsection, sentence, clause, or phrase so declared or

9 adjudged invalid or unconstitutional were not originally a part hereof. The General Assembly

10 hereby declares that it would have passed the remaining parts of this Act if it had known that

11 such part or parts hereof would be declared or adjudged invalid or unconstitutional.

12

SECTION 6.02.

13

Existing ordinances, resolutions, rules, and regulations.

14 Existing ordinances, resolutions, rules, and regulations of this city not in conflict with this

15 charter shall continue in full force and effect unless repealed or amended.

16

SECTION 6.03.

17

Specific repealer.

18 An Act incorporating the City of Oakwood in the County of Hall, approved April 1, 1979

19 (Ga. L. 1979, p. 3089), is hereby repealed in its entirety and all amendatory acts thereto are

20 likewise repealed in their entirety.

21

SECTION 6.04.

22

Effective date.

23 This Act shall become effective upon its approval by the Governor or upon its becoming law

24 without such approval.

25

SECTION 6.05.

26

Repealer.

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