

House Bill 1465

By: Representative Fleming of the 117th

A BILL TO BE ENTITLED
AN ACT

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

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

- 1 and fowl when not redeemed as provided by ordinance; and to provide punishment for
2 violation of ordinances enacted hereunder.
- 3 (b) Appropriations and Expenditures. To make appropriations for the support of the
4 government of the city; to authorize the expenditure of money for any purposes authorized
5 by this charter and for any purpose for which a municipality is authorized by the laws of the
6 State of Georgia; and to provide for the payment of expenses of the city.
- 7 (c) Building Regulation. To regulate and to license the erection and construction of
8 buildings and all other structures; to adopt building, housing, plumbing, fire safety, electrical,
9 gas, and heating and air conditioning codes; and to regulate all housing and building trades.
- 10 (d) Business Regulation and Taxation. To levy and to provide for the collection of
11 regulatory fees and taxes on privileges, occupations, trades, and professions as authorized
12 by Title 48 of the Official Code of Georgia Annotated or other such applicable laws as are
13 or may hereafter be enacted; to permit and regulate the same; to provide for the manner and
14 method of payment of such regulatory fees and taxes; and to revoke such permits after due
15 process for failure to pay any city taxes or fees.
- 16 (e) Condemnation. To condemn property, inside or outside the corporate limits of the city,
17 for present or future use and for any corporate purpose deemed necessary by the governing
18 authority, utilizing procedures enumerated in Title 22 of the Official Code of Georgia
19 Annotated or such other applicable laws as are or may hereafter be enacted.
- 20 (f) Contracts. To enter into contracts and agreements with other governmental entities and
21 with private persons, firms, and corporations.
- 22 (g) Emergencies. To establish procedures for determining and proclaiming that an
23 emergency situation exists within or without the city and to make and carry out all reasonable
24 provisions deemed necessary to deal with or meet such an emergency for the protection,
25 safety, health, or well-being of the citizens of the city.
- 26 (h) Environmental Protection. To protect and preserve the natural resources, environment,
27 and vital areas of the city, the region, and the state through the preservation and improvement
28 of air quality, the restoration and maintenance of water resources, the control of erosion and
29 sedimentation, the management of storm water and establishment of a storm water utility,
30 the management of solid and hazardous waste, and other necessary actions for the protection
31 of the environment.
- 32 (i) Fire Regulations. To fix and establish fire limits and from time to time to extend, enlarge
33 or restrict the same; to prescribe fire safety regulations not inconsistent with general law,
34 relating to both fire prevention and detection and to fire fighting; and to prescribe penalties
35 and punishment for violations thereof.
- 36 (j) Garbage Fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection and
37 disposal and other sanitary service charge, tax, or fee for such services as may be necessary

- 1 in the operation of the city from all individuals, firms, and corporations residing in or doing
2 business therein benefiting from such services; to enforce the payment of such charges, taxes,
3 or fees; and to provide for the manner and method of collecting such service charges.
- 4 (k) General Health, Safety, and Welfare. To define, regulate, and prohibit any act, practice,
5 conduct, or use of property which is detrimental to health, sanitation, cleanliness, welfare,
6 and safety of the inhabitants of the city and to provide for the enforcement of such standards.
- 7 (l) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for any
8 purpose related to the powers and duties of the city and the general welfare of its citizens on
9 such terms and conditions as the donor or grantor may impose.
- 10 (m) Health and Sanitation. To prescribe standards of health and sanitation and to provide
11 for the enforcement of such standards.
- 12 (n) Jail Sentences. To provide that persons given jail sentences in the city's court may work
13 out such sentences in any public works or on the streets, roads, drains, and other public
14 property in the city; to provide for commitment of such persons to any jail; to provide for the
15 use of pretrial diversion and any alternative sentencing allowed by law; or to provide for
16 commitment of such persons to any county work camp or county jail by agreement with the
17 appropriate county officials.
- 18 (o) Motor Vehicles. To regulate the operation of motor vehicles and exercise control over
19 all traffic, including parking upon or across the streets, roads, alleys, and walkways of the
20 city.
- 21 (p) Municipal Agencies and Delegation of Power. To create, alter, or abolish departments,
22 boards, offices, commissions, and agencies of the city and to confer upon such agencies the
23 necessary and appropriate authority for carrying out all the powers conferred upon or
24 delegated to the same.
- 25 (q) Municipal Debts. To appropriate and borrow money for the payment of debts of the city
26 and to issue bonds for the purpose of raising revenue to carry out any project, program, or
27 venture authorized by this charter or the laws of the State of Georgia.
- 28 (r) Municipal Property Ownership. To acquire, dispose of, lease, and hold in trust or
29 otherwise, any real, personal, or mixed property, in fee simple or lesser interest, inside or
30 outside the property limits of the city.
- 31 (s) Municipal Property Protection. To provide for the preservation and protection of
32 property and equipment of the city and the administration and use of same by the public; and
33 to prescribe penalties and punishment for violations thereof.
- 34 (t) Municipal Utilities. To acquire, lease, construct, operate, maintain, sell, and dispose of
35 public utilities, including but not limited to a system of waterworks, sewers and drains,
36 sewage disposal, storm-water management, gas works, electric light plants, cable television
37 and other telecommunications, transportation facilities, public airports, and any other public

- 1 utility; and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties
2 and to provide for the withdrawal of service for refusal or failure to pay the same.
- 3 (u) Nuisance. To define a nuisance and provide for its abatement whether on public or
4 private property.
- 5 (v) Penalties. To provide penalties for violation of any ordinances adopted pursuant to the
6 authority of this charter and the laws of the State of Georgia.
- 7 (w) Planning and Zoning. To provide comprehensive city planning for development by
8 zoning and to provide subdivision regulation and the like as the city council deems necessary
9 and reasonable to insure a safe, healthy, and aesthetically pleasing community.
- 10 (x) Police and Fire Protection. To exercise the power of arrest through duly appointed
11 police officers, and to establish, operate, or contract for a police and a firefighting agency.
- 12 (y) Public Hazards: Removal. To provide for the destruction and removal of any building
13 or other structure which is or may become dangerous or detrimental to the public.
- 14 (z) Public Improvements. To provide for the acquisition, construction, building, operation,
15 and maintenance of public ways, parks and playgrounds, recreational facilities, cemeteries,
16 markets and market houses, public buildings, libraries, public housing, airports, hospitals,
17 terminals, docks, parking facilities, or charitable, cultural, educational, recreational,
18 conservation, sport, curative, corrective, detentional, penal, and medical institutions,
19 agencies, and facilities; to provide any other public improvements, inside or outside the
20 corporate limits of the city; and to regulate the use of public improvements; and for such
21 purposes, property may be acquired by condemnation under Title 22 of the Official Code of
22 Georgia Annotated, or such other applicable laws as are or may hereafter be enacted.
- 23 (aa) Public Peace. To provide for the prevention and punishment of loitering, disorderly
24 conduct, drunkenness, riots, and public disturbances.
- 25 (bb) Public Transportation. To organize and operate such public transportation systems as
26 are deemed beneficial.
- 27 (cc) Public Utilities and Services. To grant franchises or make contracts for or impose taxes
28 on public utilities and public service companies; and to prescribe the rates, fares, regulations,
29 and standards and conditions of service applicable to the service to be provided by the
30 franchise grantee or contractor, insofar as not in conflict with valid regulations of the Public
31 Service Commission.
- 32 (dd) Regulation of Roadside Areas. To prohibit or regulate and control the erection,
33 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any and
34 all other structures or obstructions upon or adjacent to the rights of way of streets and roads
35 or within view thereof, within or abutting the corporate limits of the city; and to prescribe
36 penalties and punishment for violation of such ordinances.

- 1 (ee) Retirement. To provide and maintain a retirement plan and other employee benefit
2 plans and programs for officers and employees of the city.
- 3 (ff) Roadways. To lay out, open, extend, widen, narrow, establish, or change the grade of,
4 abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise improve,
5 maintain, repair, clean, prevent erosion of, and light the roads, alleys, and walkways within
6 the corporate limits of the city; and to grant franchises and rights of way throughout the
7 streets and roads and over the bridges and viaducts for the use of public utilities; and to
8 require real estate owners to repair and maintain in a safe condition the sidewalks adjoining
9 their lots or lands and to impose penalties for failure to do so.
- 10 (gg) Sewer Fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring,
11 constructing, equipping, operating, maintaining, and extending of a sewage disposal plant
12 and sewerage system and to levy on those to whom sewers and sewerage systems are made
13 available a sewer service fee, charge, or sewer tax for the availability or use of the sewers;
14 to provide for the manner and method of collecting such service charges and for enforcing
15 payments of the same; and to charge, impose, and collect a sewer connection fee or fees to
16 those connected with the system.
- 17 (hh) Solid Waste Disposal. To provide for the collection and disposal of garbage, rubbish,
18 and refuse, and to regulate the collection and disposal of garbage, rubbish, and refuse by
19 others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper,
20 and other recyclable materials and to provide for the sale of such items.
- 21 (ii) Special Areas of Public Regulation. To regulate or prohibit junk dealers and the
22 manufacture and sale of intoxicating liquors; to regulate the transportation, storage, and use
23 of combustible, explosive, and inflammable materials, the use of lighting and heating
24 equipment, and any other business or situation which may be dangerous to persons or
25 property; to regulate and control the conduct of peddlers and itinerant traders, theatrical
26 performances, exhibitions, and shows of any kind, by taxation or otherwise; to license and
27 tax professional fortunetelling, palmistry, and massage parlors; and to restrict adult
28 bookstores to certain areas.
- 29 (jj) Special Assessments. To levy and provide for the collection of special assessments to
30 cover the costs for any public improvements.
- 31 (kk) Taxes: Ad Valorem. To levy and provide for the assessment, valuation, revaluation,
32 and collection of taxes on all property subject to taxation.
- 33 (ll) Taxes: Other. To levy and collect such other taxes as may be allowed now or in the
34 future by law.
- 35 (mm) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the
36 number of such vehicles; to require the operators thereof to be licensed; to require public

1 liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to
2 regulate the parking of such vehicles.

3 (nn) Urban Redevelopment. To organize and operate an urban redevelopment program.

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

14 **SECTION 1.14.**

15 Exercise of powers.

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

20 **ARTICLE II**

21 **GOVERNMENT STRUCTURE**

22 **SECTION 2.10.**

23 City council creation; number; election.

24 The legislative authority of the government of this city, except as otherwise specifically
25 provided in this charter, shall be vested in a city council to be composed of a mayor and four
26 councilmembers. The city council established shall in all respects be a successor to and
27 continuation of the governing authority under prior law. The mayor and councilmembers
28 shall be elected in the manner provided by general law and this charter. The council shall
29 be composed of four members elected by the voters of the city at large in accordance with
30 provisions of Article V of this charter. The mayor shall be elected as provided in Section
31 2.32 of this charter.

1 Official Code of Georgia Annotated, the "Georgia Election Code," as it now exists or may
2 hereafter be amended.

3 (c) Temporary Vacancies. The provisions of this section shall also apply to a temporary
4 vacancy created by the suspension from office of the mayor or any councilmember.

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 the official's judgment or
18 action in the performance of those 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 the official's judgment or
22 action in the performance of those 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 Official Code of Georgia Annotated,
25 concerning the property, government, or affairs of the governmental body by which the
26 official is engaged without proper legal authorization; or use such information to advance
27 the financial or other private interest of the official 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 the official's knowledge is interested,
30 directly or indirectly, in any manner whatsoever, in business dealings with the
31 governmental body by which the official 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;

- 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 a 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
16 or any agency or entity to which this charter applies shall use property owned by such
17 governmental entity for personal benefit or profit but shall use such property only in his or
18 her capacity as an officer or employee of the city.
- 19 (e) Contracts Voidable and Rescindable. Any violation of this section which occurs with
20 the knowledge, express or implied, of a party to a contract or sale shall render said contract
21 or 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 appointive office in the city or otherwise
24 be employed by said government or any agency thereof during the term for which that
25 official was elected. No former mayor and no former councilmember shall hold any
26 appointive office in the city until one year after the expiration of the term for which that
27 official was elected.
- 28 (g) Political Activities of Certain Officers and Employees. No appointive officer of the city
29 shall continue in such employment upon qualifying as a candidate for nomination or election
30 to any public office. No employee of the city shall continue in such employment upon
31 qualifying for or election to any public office in this city or any other public office which is
32 inconsistent, incompatible, or in conflict with the duties of the city employee. Such
33 determination shall be made by the mayor and city council either immediately upon election
34 or at any time such conflict may arise.
- 35 (h) 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 **SECTION 2.15.**

8 Inquiries and investigations.

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

15 **SECTION 2.16.**

16 General power and authority of the city council.

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

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

26 **SECTION 2.17.**

27 Eminent domain.

28 The city council is hereby empowered to acquire, construct, operate, and maintain public
 29 ways, parks, public grounds, cemeteries, markets, market houses, public buildings, libraries,
 30 sewers, drains, sewage treatment, waterworks, electrical systems, gas systems, airports,
 31 hospitals, and charitable, educational, recreational, sport, curative, corrective, detentional,

1 penal, and medical institutions, agencies, and facilities and any other public improvements
 2 inside or outside the city, and to regulate the use thereof, and for such purposes, property
 3 may be condemned under procedures established under general law applicable now or as
 4 provided in the future.

5 **SECTION 2.18.**

6 Organizational meetings.

7 The city council shall hold an organizational meeting no later than the third Monday in
 8 January. The meeting shall be called to order by the mayor or city manager and the oath of
 9 office shall be administered to the newly elected members by a judicial officer authorized to
 10 administer oaths and shall, to the extent that it comports with federal and state law, be as
 11 follows:

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

16 "I am not the holder of any unaccounted for public money due this state or any political
 17 subdivision or authority thereof. I am not the holder of any office of trust under the
 18 government of the United States, any other state, or any foreign state which I by the laws of
 19 the State of Georgia am prohibited from holding. I am otherwise qualified to hold said office
 20 according to the Constitution and laws of Georgia. I have been a resident of the City of
 21 Harlem for the time required by the Constitution and laws of this state and by the municipal
 22 charter. I will perform the duties of my office in the best interest of the City of Harlem to the
 23 best of my ability without fear, favor, affection, reward, or expectation thereof."

24 **SECTION 2.19.**

25 Regular and special meetings.

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

28 (b) Special meetings of the city council may be held on call of the mayor or mayor pro
 29 tempore and two members of the city council. Notice of such special meetings shall be
 30 served on all other members personally, or by telephone personally, at least 48 hours in
 31 advance of the meeting. Such notice to councilmembers shall not be required if the mayor
 32 and all councilmembers are present when the special meeting is called. Such notice of any
 33 special meeting may be waived by a councilmember in writing before or after such a

1 meeting, and attendance at the meeting shall also constitute a waiver of notice on any
2 business transacted in such councilmember's presence. Only the business stated in the call
3 may be transacted at the special meeting.

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

8 **SECTION 2.20.**

9 Rules of procedure.

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

13 (b) All committee and committee chairs and officers of the city council shall be
14 recommended by the mayor and appointed by a vote of the city council.

15 **SECTION 2.21.**

16 Quorum: voting.

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

23 (b) No member of the city council shall abstain from voting on any matter properly brought
24 before the city council for official action except when such councilmember has a conflict of
25 interest which is disclosed in writing prior to or at the meeting and made a part of the
26 minutes. Any member of the city council present and eligible to vote on a matter and
27 refusing to do so for any reason other than a properly disclosed and recorded conflict of
28 interest shall be deemed to have acquiesced or concurred with the members of the majority
29 who did vote on the question.

SECTION 2.22.

Ordinance form; procedures.

(a) Every proposed ordinance should be introduced in writing and in the form required for final adoption. No ordinance shall contain a subject which is not expressed in its title. The enacting clause shall be "It is hereby ordained by the governing authority of the City of Harlem" and every ordinance shall so begin.

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

SECTION 2.23.

Action requiring an ordinance.

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

SECTION 2.24.

Emergencies.

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

1 reenactment of the ordinance in the manner specified in this section if the emergency still
 2 exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance
 3 in the same manner specified in this section for adoption of emergency ordinances.

4 (b) Such meetings shall be open to the public to the extent required by law and notice to the
 5 public of emergency meetings shall be made as fully as is reasonably possible in accordance
 6 with Code Section 50-14-21 of the Official Code of Georgia Annotated or such other
 7 applicable laws as are or may hereafter be enacted.

8 **SECTION 2.25.**

9 Codes of technical regulations.

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

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

20 **SECTION 2.26.**

21 Signing; authenticating; recording; codification; printing.

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

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

32 (c) The city council shall cause each ordinance and each amendment to this charter to be
 33 printed promptly following its adoption, and the printed ordinances and charter amendments

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

8 **SECTION 2.27.**

9 City manager; appointment; qualifications; compensation.

10 The city council shall appoint a city manager for an indefinite term and shall fix the city
11 manager's compensation. The city manager shall be appointed solely on the on the basis of
12 executive and administrative qualifications.

13 **SECTION 2.28.**

14 Removal of city manager.

15 The city manager is employed at will and may be summarily removed from office at any time
16 by the city council.

17 **SECTION 2.29**

18 Acting city manager.

19 In the event the office of city manager is vacant, the mayor and city council shall appoint an
20 acting city manager.

21 **SECTION 2.30.**

22 Powers and duties of the city manager.

23 The city manager shall be the chief executive and administrative officer of the city. The
24 responsibilities, powers, and duties of the city manager shall be set forth in an ordinance
25 adopted by city council.

SECTION 3.11.

Boards, commissions, and authorities.

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

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

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

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

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

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

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

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

SECTION 3.12.

City attorney.

The city council shall appoint a city attorney with confirmation together with such assistant city attorneys as may be authorized and shall provide for the payment of such attorney or attorneys for services rendered to the city. The city attorney shall be responsible for providing for the representation and defense of the city in all litigation in which the city is a party; may be the prosecuting officer in the municipal court; shall attend the meetings of the city council as directed; shall advise the city council, mayor, and other officers and employees of the city concerning legal aspects of the city's affairs; and shall perform such other duties as may be required by virtue of the person's position as city attorney. The city attorney is not a public official of the city and does not take an oath of office. The city attorney shall at all times be an independent contractor. A law firm, rather than an individual, may be designated as the city attorney.

SECTION 3.13.

City clerk.

The city manager with confirmation of city council shall appoint a city clerk. The city clerk shall maintain city council records required by this charter and shall maintain the city seal. Duties of the city clerk shall be set forth by ordinance.

SECTION 3.14.

Position classification and pay plans.

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

SECTION 3.15.

Personnel policies.

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

1 (c) The municipal court may fix punishment for offenses within its jurisdiction not
2 exceeding a fine of \$1,000.00 or imprisonment for 180 days or both such fine and
3 imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing as
4 now, or hereafter provided by law.

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

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

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

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

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

30 **SECTION 4.14.**

31 **Certiorari.**

32 The right of certiorari from the decision and judgment of the municipal court shall exist in
33 all criminal cases and ordinance violation cases, and such certiorari shall be obtained under
34 the sanction of a judge of the Superior Court of Columbia County under the laws of the State
35 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 said proceedings.

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

Applicability of general law.

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

SECTION 5.11.

Election of the city council and mayor.

(a) Notwithstanding the provisions of subsection (b) of this section, there shall be a municipal general election biennially in the odd-numbered years on the Tuesday next following the first Monday in November.

(b) The mayor and councilmembers serving on April 1, 2008, shall serve out their terms and until their successors have been elected and qualified. On the Tuesday next following the first Monday in November, 2008, an election shall be held for the two councilmembers whose terms of office expire the following January. The two candidates for the office of councilmember elected pursuant to Section 5.13 of this charter shall be elected for initial terms of office of three years each and for terms of four years each thereafter and until their successors are duly elected and qualified. Thereafter, on the Tuesday next following the first Monday in November in 2010, an election shall be held for the two councilmembers and the mayor whose terms of office expire the following January. The two candidates for the office of councilmember and the candidate for the office of mayor elected pursuant to Section 5.13

1 of this charter shall be elected for initial terms of office of three years each and for terms of
2 four years each thereafter and until their successors are duly elected and qualified.

3 **SECTION 5.12.**

4 Nonpartisan elections.

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

7 **SECTION 5.13.**

8 Election by plurality.

9 The candidate receiving a plurality of the votes cast for the office of councilmember shall be
10 elected. The candidate receiving the most votes, provided that such person receives at least
11 40 percent of the votes for the office of mayor shall be elected. If no candidate receives at
12 least 40 percent of the votes cast, there shall be a run-off election between the two candidates
13 receiving the two highest number of votes. Such run-off election shall be conducted pursuant
14 to Code Section 21-2-501 of the Official Code of Georgia Annotated.

15 **SECTION 5.14.**

16 Special elections; vacancies.

17 In the event that the office of mayor shall become vacant as provided in Section 2.12 of this
18 charter, the city council or those remaining shall order a special election to fill the balance
19 of the unexpired term of such official; provided, however, if such vacancy occurs within 12
20 months of the expiration of the term of that office, the mayor pro tempore shall serve for the
21 remainder of the term. In all other respects, the special election shall be held and conducted
22 in accordance with Chapter 2 of Title 21 of the Official Code of Georgia Annotated, the
23 "Georgia Election Code," as now or hereafter amended.

24 **SECTION 5.15.**

25 Other provisions.

26 Except as otherwise provided by this charter, the city council shall, by ordinance, prescribe
27 such rules and regulations it deems appropriate to fulfill any options and duties under the
28 Georgia Election Code.

1 ordinance, may provide for the payment of these taxes by two installments or in one lump
2 sum, as well as authorize the voluntary payment of taxes prior to the time when due.

3 **SECTION 6.12.**

4 Occupation and business taxes.

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

9 **SECTION 6.13.**

10 Regulatory fees; permits.

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

16 **SECTION 6.14.**

17 Franchises.

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

29 (b) If no franchise agreement is in effect, the city council has the authority to impose a tax
30 on gross receipts for the use of this city's streets and alleys for the purposes of railroads,
31 street railways, telephone companies, electric companies, electric membership corporations,

1 cable television and other telecommunications companies, gas companies, transportation
2 companies, and other similar organizations.

3 **SECTION 6.15.**

4 Service charges.

5 The city council, by ordinance, shall have the power to assess and collect fees, charges,
6 assessments, and tolls for sewers, sanitary and health services, or any other services provided
7 or made available within and without the corporate limits of the city. If unpaid, such charges
8 shall be collected as provided in Section 6.18 of this charter.

9 **SECTION 6.16.**

10 Special assessments.

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

15 **SECTION 6.17.**

16 Construction; other taxes and fees.

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

20 **SECTION 6.18.**

21 Collection of delinquent taxes and fees.

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

1 department, agency, and activity of the city government unless otherwise provided by state
2 or federal law.

3 **SECTION 6.24.**

4 Preparation of budgets.

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

9 **SECTION 6.25.**

10 Submission of operating budget to city council.

11 On or before a date fixed by the city council but not later than 45 days prior to the beginning
12 of each fiscal year, the city manager shall submit to the city council a proposed operating
13 budget for the ensuing fiscal year. Operating budget procedures shall be set forth by an
14 ordinance adopted by city council.

15 **SECTION 6.26.**

16 Action by city council on budget.

17 Action by the city council on the budget shall be set forth by an ordinance adopted by the city
18 council.

19 **SECTION 6.27.**

20 Tax levies.

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

(a) On or before the date fixed by the city council but no later than 45 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 proposed budget. The city council shall not authorize an expenditure for the construction of any building, structure, work, or improvement unless the appropriations for such projects 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 resolution the final capital budget for the ensuing fiscal year not later than the 31st day of December of each 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.

Independent audit.

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 government may be accepted as satisfying the requirements of this charter. Copies of annual audit reports shall be available at printing costs to the public.

1 ARTICLE VII

2 GENERAL PROVISIONS

3 **SECTION 7.10.**

4 Bonds for officials.

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

8 **SECTION 7.11.**

9 Prior ordinances.

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

13 **SECTION 7.12.**

14 Pending matters.

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

19 **SECTION 7.13.**

20 Construction.

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

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

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

SECTION 7.14.

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

SECTION 7.15.

Specific repealer.

An Act incorporating the City of Harlem in the County of Columbia approved March 31, 1971 (Ga. L. 1971, p. 2557) is hereby repealed in its entirety and all amendatory acts thereto are likewise repealed in their entirety. All other laws and parts of laws in conflict with this charter are hereby repealed.

SECTION 7.16.

Effective date.

This charter shall become effective on July 1, 2008.

SECTION 7.17.

General repealer.

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