

House Bill 1447 (AS PASSED HOUSE AND SENATE)

By: Representative Rynders of the 152nd

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the City of Sylvester; 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, qualifications, prohibitions, conflicts of interest,
4 and suspension and removal from office relative to members of such governing authority;
5 to provide for taxation, licenses, and fees; to provide for franchises and assessments; to
6 provide for bonded and other indebtedness; to provide for auditing, budgeting, and
7 appropriations; to provide for city contracts and purchasing; to provide for the conveyance
8 of property and interests therein; to provide for bonds for officials; to provide for prior
9 ordinances and rules, pending matters, and personnel; to provide for penalties; to provide for
10 definitions and construction; to provide for other matters relative to the foregoing; to repeal
11 a specific Act; to provide for effective dates; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 ARTICLE I
15 INCORPORATION AND POWERS
16 SECTION 1.10.
17 Name.

18 This city and the inhabitants thereof are reincorporated by the enactment of this charter and
19 are hereby constituted and declared a body politic and corporate under the name and style
20 City of Sylvester, Georgia, and by that name shall have perpetual existence.

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

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

- 1 (v) Penalties. To provide penalties for violation of any ordinances adopted pursuant to the
2 authority of this charter and the laws of the State of Georgia.
- 3 (w) Planning and Zoning. To provide comprehensive city planning for development by
4 zoning; and to provide subdivision regulations and the like as the city council deems
5 necessary and reasonable to ensure a safe, healthy, and aesthetically pleasing community.
- 6 (x) Police and Fire Protection. To exercise the power of arrest through duly appointed
7 police; and to establish, operate, or contract for police and fire fighting agencies.
- 8 (y) Public Hazards: Removal. To provide for the destruction and removal of any building
9 or other structure which is or may become dangerous or detrimental to the public.
- 10 (z) Public Improvements. To provide for the acquisition, construction, building, operation,
11 and maintenance of public ways, parks and playgrounds, recreational facilities, cemeteries,
12 markets and market houses, public buildings, libraries, public housing, airports, hospitals,
13 terminals, docks, parking facilities, or charitable, cultural, educational, recreational,
14 conservation, sport, curative, corrective, detention, penal, and medical institutions, agencies,
15 and facilities; to provide any other public improvements, inside or outside the corporate
16 limits of the city; to regulate the use of public improvements; and for such purposes property
17 may be acquired by condemnation under procedures provided by the Official Code of
18 Georgia Annotated as the same shall exist from time to time.
- 19 (aa) Public Peace. To provide for the prevention and punishment of drunkenness, riots, and
20 public disturbances.
- 21 (bb) Public Transportation. To organize and operate such public transportation systems as
22 are deemed beneficial.
- 23 (cc) Public Utilities and Services. To grant franchises or make contracts for or impose taxes
24 on public utilities and public service companies; and to prescribe the rates, fares, regulations
25 standards, and conditions of service applicable to the service to be provided by the franchise
26 grantee or contractor, insofar as the same are not in conflict with valid regulations of the
27 Public Service Commission.
- 28 (dd) Regulation of Roadside Areas. To prohibit or regulate and control the erection,
29 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any and
30 all other structures or obstructions upon or adjacent to the rights of way of streets and roads
31 or within view thereof, within or abutting the corporate limits of the city; and to prescribe
32 penalties and punishment for violation of such ordinances.
- 33 (ee) Retirement. To provide and maintain a retirement plan for officers and employees of
34 the city.
- 35 (ff) Roadways. To lay out, open, extend, widen, narrow, establish, change the grade of,
36 abandon or close, construct, pave, curb, gutter, provide drainage for, adorn with shade trees,
37 or otherwise improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys,

- 1 and walkways within the corporate limits of the city; and to grant franchises and rights of
2 way throughout the streets and roads and over the bridges and viaducts for the use of public
3 utilities; and to require real estate owners to repair and maintain in a safe condition the
4 sidewalks adjoining their lots or lands, and to impose penalties for failure to do so.
- 5 (gg) Sewer Fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring,
6 constructing, equipping, operating, maintaining, and extending of a sanitary sewage disposal
7 plant and sewerage system; to levy on those to whom sewers and sewerage systems are made
8 available a sewer service fee, charge, or sewer tax for the availability or use of the sewers;
9 to provide for the manner and method of collecting such service charges and for enforcing
10 payment of the same; and to charge, impose, and collect a sewer connection fee or fees to
11 those connected with the system.
- 12 (hh) Solid Waste Disposal. To provide for the collection and disposal of garbage, rubbish,
13 and refuse, and to regulate the collection and disposal of garbage, rubbish, and refuse by
14 others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper,
15 and other recyclable materials.
- 16 (ii) Special Areas of Public Regulation. To regulate or prohibit junk dealers, pawn shops,
17 the manufacture, sale, or transportation of intoxicating liquors, and the use and sale of
18 firearms; to regulate the transportation, storage, and use of combustible, explosive, and
19 inflammable materials, the use of lighting and heating equipment, and any other business or
20 situation which the city may deem to be dangerous to persons or property; to regulate and
21 control the conduct of peddlers and itinerant traders and theatrical performances, exhibitions,
22 and shows of any kind, by taxation or otherwise; and to license, tax, regulate, or prohibit
23 professional fortunetelling, palmistry, adult bookstores, and massage parlors.
- 24 (jj) Special Assessments. To levy and provide for the collection of special assessments to
25 cover the costs for any public improvements.
- 26 (kk) Taxes: Ad Valorem. To levy and provide for the assessment, valuation, revaluation,
27 and collection of taxes on all property subject to taxation.
- 28 (ll) Taxes: Other. To levy and collect such other taxes as may be allowed now or in the
29 future by law.
- 30 (mm) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the
31 number of such vehicles; to require the operators thereof to be licensed; to require public
32 liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to
33 regulate the parking of such vehicles.
- 34 (nn) Urban Redevelopment. To organize and operate an urban redevelopment program.
- 35 (oo) Other Powers. To exercise and enjoy all other powers, functions, rights, privileges, and
36 immunities necessary or desirable to promote or protect the safety, health, peace, security,
37 good order, comfort, convenience, or general welfare of the city and its inhabitants; to

1 exercise all implied powers necessary or desirable to carry into execution all powers granted
 2 in this charter as fully and completely as if such powers were fully stated herein; and to
 3 exercise all powers now or in the future authorized to be exercised by other municipal
 4 governments under other laws of the State of Georgia; and no listing of particular powers in
 5 this charter shall be held to be exclusive of others, nor restrictive of general words and
 6 phrases granting powers, but shall be held to be in addition to such powers unless expressly
 7 prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

8 **SECTION 1.14.**

9 Exercise of powers.

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

14 **ARTICLE II**

15 **GOVERNMENT STRUCTURE**

16 **SECTION 2.10.**

17 City council creation; number; election.

18 The legislative authority of the government of this city, except as otherwise specifically
 19 provided in this charter, shall be vested in a city council to be composed of a mayor and four
 20 councilmembers. The city council shall in all respects be a successor to and continuation of
 21 the governing authority under prior law. The mayor and councilmembers shall be elected
 22 in the manner provided by general law and this charter.

23 **SECTION 2.11.**

24 City council terms and qualifications for office.

25 The members of the city council shall serve for terms of four years and until their respective
 26 successors are elected and qualified. No person shall be eligible to serve as mayor or
 27 councilmember unless that person shall have been a resident of the city for at least 12 months
 28 prior to the date of election of the mayor or member of the council; each shall continue to
 29 reside therein during that member's period of service and to be registered and qualified to
 30 vote in municipal elections of this city.

SECTION 2.12.

Vacancy; filling of vacancies.

(a) Vacancies - The office of mayor or councilmember shall become vacant upon the occurrence of any event specified by the Constitution, Title 45 of the Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter be enacted.

(b) Filling of Vacancies - A vacancy in the office of mayor or councilmember shall be filled for the remainder of the unexpired term, if any, by appointment by the remaining councilmembers if less than six months remain in the unexpired term, otherwise by an election, as provided for in Section 5.14 of this charter and in accordance with Titles 21 and 45 of the Official Code of Georgia Annotated or other such laws as are or may hereafter be enacted.

SECTION 2.13.

Compensation and expenses.

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

SECTION 2.14.

Conflicts of interest.

(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) Neither the mayor nor any member of the city council shall vote upon, sign, or veto any ordinance, resolution, contract, or other matter in which that person is financially interested.

SECTION 2.15.

Inquiries and investigations.

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

1 resolution, or motion. An abstention shall not be counted as either an affirmative or negative
2 vote.

3 **SECTION 2.22.**

4 Ordinance form; procedures.

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

9 (b) An ordinance may be introduced by any councilmember and be read at a regular or
10 special meeting of the city council. Ordinances shall be considered and adopted or rejected
11 by the city council in accordance with the rules which it shall establish. Except for
12 emergency ordinances, all ordinances shall have two separate readings; provided, however,
13 the city council may dispense with the second reading with the unanimous consent of the
14 members present. Upon introduction of any ordinance, the city clerk shall as soon as
15 possible distribute a copy to the mayor and each councilmember and shall file a reasonable
16 number of copies in the office of the city clerk and at such other public places as the city
17 council may designate.

18 **SECTION 2.23.**

19 Action requiring an ordinance.

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

21 **SECTION 2.24.**

22 Emergencies.

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

1 rejected at the meeting at which it is introduced, but the affirmative vote of at least three
 2 councilmembers shall be required for adoption. It shall become effective upon adoption or
 3 at such later time as it may specify. Every emergency ordinance shall automatically stand
 4 repealed 30 days following the date upon which it was adopted, but this shall not prevent
 5 reenactment of the ordinance in the manner specified in this section if the emergency still
 6 exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance
 7 in the same manner specified in this section for adoption of emergency ordinances.

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

12 **SECTION 2.25.**

13 Codes of technical regulations.

14 (a) The city council may adopt any standard code of technical regulations by reference
 15 thereto in an adopting ordinance. The procedures and requirements governing such adopting
 16 ordinance shall be as prescribed for ordinances generally except that: (1) the requirements
 17 of Section 2.22(b) of this charter for distribution and filing of copies of the ordinance shall
 18 be construed to include copies of any code of technical regulations, as well as the adopting
 19 ordinance; and (2) a copy of each adopted code of technical regulations, as well as the
 20 adopting ordinance, shall be authenticated and recorded by the city clerk pursuant to Section
 21 2.26 of this charter.

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

24 **SECTION 2.26.**

25 Signing; authenticating; recording; codification; printing.

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

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

1 departments, and agencies of the city and made available for purchase by the public at a
2 reasonable price as fixed by the city council.

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

12 **SECTION 2.27.**

13 Election of mayor; forfeiture; compensation.

14 The mayor shall be elected and serve for a term of four years and until a successor is elected
15 and qualified. The mayor shall be a qualified elector of this city and shall have been a
16 resident of the city for 12 months preceding the election. The mayor shall continue to reside
17 in this city during the period of service. The mayor shall forfeit the office on the same
18 grounds and under the same procedure as for councilmembers. The compensation of the
19 mayor shall be established in the same manner as for councilmembers.

20 **SECTION 2.28.**

21 Powers and duties of mayor.

22 The mayor shall:

- 23 (1) Preside at all meetings of the city council;
24 (2) Be the head of the city for the purpose of service of process and for ceremonial
25 purposes and be the official spokesperson for the city and the chief advocate of city
26 policy;
27 (3) Have power to administer oaths and to take affidavits;
28 (4) Sign as a matter of course on behalf of the city all written and approved contracts,
29 ordinances, and other instruments executed by the city which by law are required to be
30 in writing; and
31 (5) Vote on matters before the city council and be counted toward a quorum as any other
32 councilmember.

- 1 (5) Prepare and submit the annual operating budget and capital budget to the city
2 council;
- 3 (6) Submit to the city council and make available to the public a complete report on the
4 finances and administrative activities of the city as of the end of each fiscal year;
- 5 (7) Make such other reports as the city council may require concerning the operations
6 of city departments, offices, and agencies subject to the city manager's direction and
7 supervision;
- 8 (8) Keep the city council fully advised as to the financial condition and future needs of
9 the city and make such recommendations to the city council concerning the affairs of the
10 city as the city manager deems desirable; and
- 11 (9) Perform other such duties as are specified in this charter or as may be required by the
12 city council.

13 **SECTION 2.32.**

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 for any lawful reason or without cause by affirmative vote of a majority
17 of all councilmembers.

18 **SECTION 2.33.**

19 Council interference with administration.

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

25 **ARTICLE III**

26 **ADMINISTRATIVE AFFAIRS**

27 **SECTION 3.10.**

28 Administrative and service departments.

29 (a) Except as otherwise provided in this charter, the city council, by ordinance, shall
30 prescribe the functions and duties of and establish, abolish, alter, consolidate, or leave vacant

1 all nonelective offices, positions of employment, departments, and agencies of the city as
2 necessary for the proper administration of the affairs and government of this city.

3 (b) Except as otherwise provided by this charter or by law, the directors of city departments
4 and other appointed officers of the city under the supervision of the city manager shall be
5 appointed by the city manager solely on the basis of their respective administrative and
6 professional qualifications. Except those appointed by the city council, all appointed
7 officers, directors, and department heads shall be employees at will and subject to removal
8 or suspension at any time by the city manager.

9 (c) All appointed officers and directors of departments shall receive such compensation as
10 prescribed by ordinance.

11 (d) There shall be a director of each department or agency who shall be its principal officer.
12 Each director shall, subject to the direction and supervision of the city manager, be
13 responsible for the administration and direction of the affairs and operations of that director's
14 department or agency.

15 **SECTION 3.11.**

16 **Boards, commissions, and authorities.**

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

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

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

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

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

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

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

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

11 **SECTION 3.12.**

12 City attorney.

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

21 **SECTION 3.13.**

22 City clerk.

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

27 **SECTION 3.14.**

28 Personnel policies.

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

1 ARTICLE IV

2 JUDICIAL BRANCH

3 SECTION 4.10.

4 Municipal court creation.

5 There shall be a court to be known as the Municipal Court of the City of Sylvester.

6 SECTION 4.11.

7 Chief judge; associate judge.

8 (a) The municipal court shall be presided over by a chief judge and such part-time, full-time,
9 or stand-by judges as shall be provided by ordinance.10 (b) No person shall be qualified or eligible to serve as a judge on the municipal court unless
11 that person shall have attained the age of 21 years and shall possess all qualifications
12 required by law. All judges shall be appointed by the city council and shall serve until a
13 successor is appointed and qualified.

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

15 (d) Judges serve at will and may be removed from office at any time by the city council
16 unless otherwise provided by ordinance.17 (e) Before assuming office, each judge shall take an oath, given by the mayor, that the judge
18 will honestly and faithfully discharge the duties of the office to the best of that person's
19 ability and without fear, favor, or partiality. The oath shall be entered upon the minutes of
20 the city council journal required in Section 2.20 of this charter.

21 SECTION 4.12.

22 Convening.

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

24 SECTION 4.13.

25 Jurisdiction: powers.

26 (a) The municipal court shall try and punish violations of this charter, all city ordinances,
27 and such other violations as provided by law.28 (b) The municipal court shall have authority to punish those in its presence for contempt,
29 provided that such punishment shall not exceed \$500.00 or ten days in jail.

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 other 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 care of prisoners bound over to superior courts for violations of state law.

8 (e) The municipal court shall have authority to establish bail and recognizance to ensure the
9 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
15 the event that cash or property is accepted in lieu of bond for security for the appearance of
16 a 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 Worth County under the laws of the State of
35 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 of the municipal court 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 total 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.

SECTION 4.16.

Indigent defense and prosecutor.

The mayor and city council shall have the power to provide for a system of defense for indigent persons charged in the municipal court of the City of Sylvester with violations of ordinances or state laws and for the prosecution of such cases by a prosecutor. The city council is further authorized to provide for the expense of indigent defense and prosecution by prorating the estimated cost over all criminal cases disposed of by the court and bond forfeitures in the criminal cases. A bond amount shall be imposed by the municipal court judge and collected in all criminal cases. Bond forfeitures in such cases shall be collected as costs in addition to fines, penalties, and all other costs.

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.

Regular elections; time for holding.

(a) On Tuesday next following the first Monday in November, 2009, successors to the mayor and Ward 3 and Ward 4 councilmembers whose terms expire on December 31, 2009,

1 shall be elected for a term of office expiring on December 31, 2013, and until their respective
2 successors are elected and qualified.

3 (b) On Tuesday next following the first Monday in November, 2011, successors to Ward 1
4 and Ward 2 councilmembers whose terms expire on December 31, 2011, shall be elected for
5 a term of office expiring on December 31, 2015, and until their respective successors are
6 elected and qualified.

7 (c) The general municipal election for the election of the mayor and councilmembers shall
8 be conducted on the Tuesday next following the first Monday in November in each
9 odd-numbered year. Successors shall be elected to those offices the terms of which will
10 expire on December 31 of such year. All persons elected to such offices shall take office on
11 January 1 immediately following the date of the municipal election and shall have terms of
12 office of four years and until their respective successors are elected and qualified.

13 **SECTION 5.12.**

14 Nonpartisan elections.

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

17 **SECTION 5.13.**

18 Election by majority.

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

20 **SECTION 5.14.**

21 Special elections; vacancies.

22 In the event that the office of mayor or councilmember shall become vacant as provided in
23 Section 2.12 of this charter, the city council or those remaining shall appoint a successor for
24 the remainder of the term, provided that less than six months remain in the unexpired term.
25 In all other respects, the special election shall be held and conducted in accordance with
26 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, the "Georgia Election
27 Code," as now or hereafter amended.

SECTION 6.11.

Millage rate; due dates; payment methods.

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

SECTION 6.12.

Occupation and business taxes.

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

SECTION 6.13.

Regulatory fees; permits.

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

SECTION 6.14.

Franchises.

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

1 clerk. The city council may provide by ordinance for the registration within a reasonable
2 time of all franchises previously granted.

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

8 **SECTION 6.15.**

9 Service charges.

10 The city council by ordinance shall have the power to assess and collect fees, charges, and
11 tolls for sewers, sanitary and health services, or any other services provided or made
12 available within and without the corporate limits of the city for the total cost to the city of
13 providing or making available such services. If unpaid, such charges shall be collected as
14 provided in Section 6.18 of this charter.

15 **SECTION 6.16.**

16 Special assessments.

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

22 **SECTION 6.17.**

23 Construction; other taxes and fees.

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

1 the contract terminates without further obligation on the part of the municipality at the close
2 of the calendar year in which it was executed and at the close of each succeeding calendar
3 year for which it may be renewed. Contracts must be executed in accordance with the
4 requirements of O.C.G.A. Section 36-60-13 or other such applicable laws as are or may
5 hereafter be enacted.

6 **SECTION 6.23.**

7 Fiscal year.

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

11 **SECTION 6.24.**

12 Preparation of budgets.

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

17 **SECTION 6.25.**

18 Submission of operating budget to city council.

19 On or before a date fixed by the city council, but not later than 60 days prior to the beginning
20 of each fiscal year, the city manager shall submit to the city council a proposed operating
21 budget for the ensuing fiscal year. The budget shall be accompanied by a message from the
22 mayor containing a statement of the general fiscal policies of the city, the important features
23 of the budget, explanations of major changes recommended for the next fiscal year, a general
24 summary of the budget, and such other pertinent comments and information. The operating
25 budget and the capital budget required by this article, the budget message, and all supporting
26 documents shall be filed in the office of the city clerk and shall be open to public inspection.

SECTION 6.26.

Action by city council on the budget.

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

(b) The city council by ordinance shall adopt the final operating budget for the ensuing fiscal year not later than the first day of the ensuing fiscal year. If the city council fails to adopt the budget by such date, the amounts appropriated for operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly until such time as the city council adopts a budget for the ensuing fiscal year. Adoption of the budget shall take the form of an appropriations ordinance setting out the estimated revenues in detail by sources and making appropriations according to fund and by organizational unit, purpose, or activity as set out in the budget preparation ordinance adopted pursuant to Section 6.24 of this charter.

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

SECTION 6.27.

Tax levies.

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

SECTION 6.28.

Changes in appropriations.

The city council by ordinance may make changes in the appropriations contained in the current operating budget at any regular meeting or special or emergency meeting called for

1 such purpose, but any additional appropriations may be made only from an existing
2 unexpended surplus.

3 **SECTION 6.29.**

4 Independent audit.

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

10 **SECTION 6.30.**

11 Contracting procedures.

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

13 (1) It is in writing;

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

16 (3) It is made or authorized by the city council, and such approval is entered in the city
17 council journal of proceedings pursuant to Section 2.21 of this charter.

18 **SECTION 6.31.**

19 Centralized purchasing.

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

22 **SECTION 6.32.**

23 Sale and lease of city property.

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

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

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

13 **ARTICLE VII**

14 **GENERAL PROVISIONS**

15 **SECTION 7.10.**

16 Bonds for officials.

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

20 **SECTION 7.11.**

21 Prior ordinances.

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

25 **SECTION 7.12.**

26 Existing personnel and officers.

27 Except as specifically provided otherwise by this charter, all personnel and officers of the
 28 city and their rights, privileges, and powers shall continue beyond the time this charter takes
 29 effect for a period of 180 days before or during which the existing city council shall pass a
 30 transition ordinance detailing the changes in personnel and appointed officers required or

1 desired and arranging such titles, rights, privileges, and powers as may be required or desired
2 to allow a reasonable transition.

3 **SECTION 7.13.**

4 Pending matters.

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

9 **SECTION 7.14.**

10 Construction.

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

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

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

16 **SECTION 7.15.**

17 Severability.

18 If any article, section, subsection, paragraph, sentence, or part thereof of this charter shall be
19 held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect
20 nor impair other parts of this charter unless it clearly appears that such other parts are wholly
21 and necessarily dependent upon the part held to be invalid or unconstitutional, it being the
22 legislative intent in enacting this charter that each article, section, subsection, paragraph,
23 sentence, or part thereof be enacted separately and independent of each other.

24 **SECTION 7.16.**

25 Repealer.

26 An Act incorporating the City of Sylvester in the County of Worth, State of Georgia,
27 approved June 30, 1964, (Ga. L. 1964, Ex. Sess. p. 2116), is hereby repealed in its entirety,
28 and all amendatory acts thereto are likewise repealed in their entirety. All other laws and
29 parts of laws in conflict with this charter are hereby repealed.

