

House Bill 636

By: Representatives Jacobs of the 80th and Taylor of the 79th

A BILL TO BE ENTITLED
AN ACT

1 To incorporate the City of Brookhaven in DeKalb County; to provide for a charter for the
2 City of Brookhaven; to provide for incorporation, boundaries, and powers of the city; to
3 provide for general powers and limitations on powers; to provide for a governing authority
4 of such city and the powers, duties, authority, election, terms, method of filling vacancies,
5 compensation, expenses, qualifications, prohibitions, and districts relative to members of
6 such governing authority; to provide for inquiries and investigations; to provide for
7 organization and procedures; to provide for ordinances; to provide for codes; to provide for
8 a charter commission; to provide for the office of mayor and certain duties and powers
9 relative to the office of mayor; to provide for administrative responsibilities; to provide for
10 boards, commissions, and authorities; to provide for a city manager, a city attorney, a city
11 clerk, a tax collector, a city accountant, and other personnel; to provide for a municipal court
12 and the judge or judges thereof; to provide for practices and procedures; to provide for ethics
13 and disclosures; to provide for taxation, licenses, and fees; to provide for franchises, service
14 charges, and assessments; to provide for bonded and other indebtedness; to provide for
15 accounting and budgeting; to provide for purchases; to provide for homestead exemptions;
16 to provide for bonds for officials; to provide for other matters relative to the foregoing; to
17 provide for a referendum; to provide effective dates and transitional provisions governing the
18 transfer of various functions and responsibilities from DeKalb County to the City of
19 Brookhaven; to provide for severability; to provide an effective date; to repeal conflicting
20 laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 ARTICLE I

23 CREATION, INCORPORATION, POWERS

24 SECTION 1.01.

25 Incorporation.

26 This Act shall constitute the charter of the City of Brookhaven, Georgia. The City of
 27 Brookhaven, Georgia, in the County of DeKalb, and the inhabitants thereof, are constituted
 28 and declared a body politic and corporate under the same name and style of the "City of
 29 Brookhaven" and by that name shall have perpetual succession, may sue and be sued, plead
 30 and be impleaded, in all courts of law and equity, and in all actions whatsoever, and may
 31 have and use a common seal.

32 SECTION 1.02.

33 Corporate boundaries.

34 The boundaries of the City of Brookhaven shall be those set forth and described in Appendix
 35 A of this charter, and said Appendix A is incorporated into and made a part of this charter.
 36 The city clerk shall maintain a current map and written legal description of the corporate
 37 boundaries of the city, and such map and description shall incorporate any changes which
 38 may hereafter be made in such corporate boundaries.

39 SECTION 1.03.

40 Powers and construction.

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

45 (b) The powers of this city shall be construed liberally in favor of the city. The specific
 46 mention or failure to mention particular powers shall not be construed as limiting in any way
 47 the powers of this city. These powers shall include, but not be limited to, the following:

48 (1) Animal regulations. To regulate and license or to prohibit the keeping or running at
 49 large of animals and fowl, and to provide for the impoundment of same if in violation of
 50 any ordinance or lawful order; to provide for the disposition by sale, gift, or humane
 51 destruction of animals and fowl when not redeemed as provided by ordinance; and to
 52 provide punishment for violation of ordinances enacted hereunder;

- 53 (2) Appropriations and expenditures. To make appropriations for the support of the
54 government of the city; to authorize the expenditure of money for any purposes
55 authorized by this charter and for any purpose for which a municipality is authorized by
56 the laws of the State of Georgia; and to provide for the payment of expenses of the city;
- 57 (3) Building regulation. To regulate and to license the erection and construction of
58 buildings and all other structures; to adopt building, housing, plumbing, electrical, gas,
59 and heating and air conditioning codes; and to regulate all housing and building trades
60 to the extent permitted by general law;
- 61 (4) Business regulation and taxation. To levy and to provide for the collection of
62 regulatory fees and taxes on privileges, occupations, trades, and professions as authorized
63 by Title 48 of the O.C.G.A. or other such applicable laws as are or may hereafter be
64 enacted; to permit and regulate the same; to provide for the manner and method of
65 payment of such regulatory fees and taxes; and to revoke such permits after due process
66 for failure to pay any city taxes or fees;
- 67 (5) Condemnation.
- 68 (A) To condemn property inside the corporate limits of the city for present or future
69 use and for any public purpose deemed necessary by the city council utilizing
70 procedures enumerated in Title 22 of the O.C.G.A. or such other applicable laws as are
71 or may hereafter be enacted;
- 72 (B) The municipality shall have the right to condemn and cause to be remediated or
73 removed any building, structure, or existing condition within its corporate limits that
74 is dangerous to life, limb, or property, by reasons of decay, dilapidation, or unsanitary
75 condition. Nothing in this subparagraph shall be construed to relieve the municipality
76 of any duty to give owners or interested persons reasonable notice and opportunity to
77 remedy the situation. Nothing in this subparagraph shall be construed as relieving the
78 municipality of liability to any interested person for damages to person or property
79 taken or destroyed in furtherance of this subparagraph. This subparagraph shall not be
80 construed as authorizing the doing of any act or thing contrary to the Constitution of
81 this state and the policy of the general laws of this state. The municipality shall have
82 authority to adopt reasonable ordinances and resolutions for the purpose of carrying out
83 this subparagraph;
- 84 (6) Contracts. To enter into contracts and agreements with other governmental entities
85 and with private persons, firms, and corporations;
- 86 (7) Emergencies. To establish procedures for determining and proclaiming that an
87 emergency situation exists within or without the city, and to make and carry out all
88 reasonable provisions deemed necessary to deal with or meet such an emergency for the
89 protection, safety, health, or well-being of the citizens of the city;

90 (8) Environmental protection. To protect and preserve the natural resources,
91 environment, and vital areas of the city, the region, and the state through the enactment
92 of ordinances that preserve and improve air quality, restore and maintain water resources,
93 the control of erosion and sedimentation, manage storm water and establish a storm-water
94 utility, manage solid and hazardous waste, and provide other necessary or beneficial
95 actions for the protection of the environment. These ordinances shall include, without
96 limitation, ordinances that protect, maintain, and enhance the public health, safety,
97 environment, and general welfare and minimize public and private losses due to flood
98 conditions in flood hazard areas, as well as protect the beneficial uses of flood plain areas
99 for water quality protection, stream bank and stream corridor protection, wetlands
100 preservation, and ecological and environmental protection. Such ordinances may require
101 that users vulnerable to floods, including facilities which serve such uses, be protected
102 against flood damage at the time of initial construction; restrict or prohibit uses which are
103 dangerous to health, safety, and property due to flooding or erosion hazards, or which
104 increase flood heights, velocities, or erosion; control filling, grading, dredging, and other
105 development which may increase flood damage or erosion; prevent or regulate the
106 construction of flood barriers which will unnaturally divert flood waters or which may
107 increase flood hazards to other lands; limit the alteration of natural flood plains, stream
108 channels, and natural protective barriers which are involved in the accommodation of
109 flood waters; and protect the storm-water management, water quality, stream bank
110 protection, stream corridor protection, wetland preservation, and ecological functions of
111 natural flood plain areas;

112 (9) Ethics. To adopt ethics ordinances and regulations governing such things as, but not
113 limited to, the conduct of municipal elected officials, appointed officials, contractors,
114 vendors, and employees, establishing procedures for ethics complaints, and setting forth
115 penalties for violations of such rules and procedures;

116 (10) Fire regulations. To fix and establish fire limits and from time to time to extend,
117 enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with
118 general law, relating to both fire prevention and detection and to fire fighting; and to
119 prescribe penalties and punishment for violations thereof;

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

- 126 (12) General health, safety, and welfare. To define, regulate, and prohibit any act,
127 practice, conduct, or use of property which is detrimental to health, sanitation,
128 cleanliness, welfare, and safety of the inhabitants of the city, and to provide for the
129 enforcement of such standards;
- 130 (13) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for
131 any purpose related to powers and duties of the city and the general welfare of its
132 citizens, on such terms and conditions as the donor or grantor may impose;
- 133 (14) Health and sanitation. To prescribe standards of health and sanitation and to
134 provide for the enforcement of such standards;
- 135 (15) Homestead exemption. To establish and maintain procedures for offering
136 homestead exemptions to residents of the city and maintaining current homestead
137 exemptions of residents of the city as authorized by Act of the General Assembly;
- 138 (16) Jail sentences. To provide that persons given jail sentences in the city's court may
139 work out such sentences in any public works or on the streets, roads, drains, and other
140 public property in the city; to provide for commitment of such persons to any jail; to
141 provide for the use of pretrial diversion and any alternative sentencing allowed by law;
142 or to provide for commitment of such persons to any county work camp or county jail by
143 agreement with the appropriate county officials;
- 144 (17) Motor vehicles. To regulate the operation of motor vehicles and exercise control
145 over all traffic, including parking upon or across the streets, roads, alleys, and walkways
146 of the city;
- 147 (18) Municipal agencies and delegation of power. To create, alter, or abolish
148 departments, boards, offices not specified in this charter, commissions, authorities, and
149 agencies of the city; and to confer upon such agencies the necessary and appropriate
150 authority for carrying out all the powers conferred upon or delegated to the same;
- 151 (19) Municipal debts. To appropriate and borrow money for the payment of debts of the
152 city and to issue bonds for the purpose of raising revenue to carry out any project,
153 program, or venture authorized by this charter or the laws of the State of Georgia;
- 154 (20) Municipal property ownership. To acquire, dispose of, lease, and hold in trust or
155 otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or
156 outside the property limits of the city;
- 157 (21) Municipal property protection. To provide for the preservation and protection of
158 property and equipment of the city and the administration and use of same by the public;
159 and to prescribe penalties and punishment for violations thereof;
- 160 (22) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose
161 of public utilities, including but not limited to a system of waterworks, sewers and drains,
162 sewage disposal, storm-water management, gasworks, electricity generating plants, cable

163 television and other telecommunications, transportation facilities, public airports, and any
164 other public utility; to fix the taxes, charges, rates, fares, fees, assessments, regulations,
165 and penalties; and to provide for the withdrawal of service for refusal or failure to pay the
166 same;

167 (23) Nuisance. To define a nuisance and provide for its abatement whether on public or
168 private property;

169 (24) Penalties. To provide penalties for violation of any ordinances adopted pursuant to
170 the authority of this charter and the laws of the State of Georgia;

171 (25) Planning and zoning. To provide comprehensive city planning for city land use,
172 signage and outside advertising, and development by zoning; and to provide subdivision
173 regulation and the like as the city council deems necessary and reasonable to ensure a
174 safe, healthy, and aesthetically pleasing community;

175 (26) Police and fire protection. To exercise the power of arrest through duly appointed
176 police officers, and to establish, operate, or contract for a police and a fire-fighting
177 agency;

178 (27) Public hazards; removal. To provide for the destruction and removal of any
179 building or other structure that is or may become dangerous or detrimental to the public;

180 (28) Public improvements. To provide for the acquisition, construction, building,
181 operation, maintenance, or abolition of public ways, parks and playgrounds, recreational
182 facilities, cemeteries, public buildings, libraries, public housing, parking facilities, and
183 charitable, cultural, educational, recreational, conservation, sport, detentional, penal, and
184 medical institutions, agencies, and facilities; to provide any other public improvements
185 inside the corporate limits of the city and to regulate the use of public improvements; and
186 for such purposes, property may be acquired by condemnation under Title 22 of the
187 O.C.G.A. or such other applicable laws as are or may hereafter be enacted;

188 (29) Public peace. To provide for the prevention and punishment of loitering, disorderly
189 conduct, drunkenness, riots, and public disturbances;

190 (30) Public transportation. To organize and operate such public transportation systems
191 as are deemed beneficial;

192 (31) Public utilities and services. To grant franchises or make contracts for, or impose
193 taxes on, public utilities and public service companies; and to prescribe the rates, fares,
194 regulations, and standards and conditions of service applicable to the service to be
195 provided by the franchise grantee or contractor, insofar as not in conflict with valid
196 regulations of the Public Service Commission;

197 (32) Regulation of roadside areas. To prohibit or regulate and control the erection,
198 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any
199 and all other structures or obstructions upon or adjacent to the rights of way of streets and

200 roads or within view thereof, within or abutting the corporate limits of the city; and to
201 prescribe penalties and punishment for violation of such ordinances;

202 (33) Employee benefits. To provide and maintain a retirement plan, insurance, and such
203 other employee benefits for appointed officers and employees of the city as are
204 determined by the city council;

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

212 (35) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish,
213 and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by
214 others; and to provide for the separate collection of glass, tin, aluminum, cardboard,
215 paper, and other recyclable materials and to provide for the sale of such items;

216 (36) Special assessments. To levy and provide for the collection of special assessments
217 to cover the costs for any public improvements, subject to referendum;

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

220 (A) The millage rate imposed for ad valorem taxes on real property shall not exceed
221 4.00 unless a higher limit is recommended by resolution of the city council and
222 approved by a majority of the qualified voters of the City of Brookhaven voting on the
223 issue;

224 (B) For all years, the fair market value of all property subject to taxation shall be
225 determined according to the tax digest of DeKalb County, as provided in Code Section
226 48-5-352 of the O.C.G.A.; and

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

229 (39) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the
230 number of such vehicles; to require the operators thereof to be licensed; to require public
231 liability insurance on such vehicles in the amounts to be prescribed by ordinance; to
232 inspect said vehicles and mandate standards of safety and cleanliness; and to regulate the
233 parking of such vehicles;

234 (40) Tourism, conventions, and trade shows. To provide for the structure, operation, or
235 management of the Brookhaven Convention and Visitors Bureau created pursuant to
236 Section 1.05 of this charter and to authorize the City of Brookhaven to contract with

237 private sector nonprofit organizations or other governmental agencies to promote tourism,
238 conventions, and trade shows.

239 (41) Urban redevelopment. To organize and operate an urban redevelopment program;
240 and

241 (42) Other powers. To exercise and enjoy all other powers, functions, rights, privileges,
242 and immunities necessary or desirable to promote or protect the safety, health, peace,
243 security, good order, comfort, convenience, or general welfare of the city and its
244 inhabitants; to exercise all implied powers necessary or desirable to carry into execution
245 all powers granted in this charter as fully and completely as if such powers were fully
246 stated herein; and to exercise all powers now or in the future authorized to be exercised
247 by other municipal governments under other laws of the State of Georgia; and any listing
248 of particular powers in this charter shall not be held to be exclusive of others or restrictive
249 of general words and phrases granting powers, but shall be held to be in addition to such
250 powers unless expressly prohibited to municipalities under the Constitution or applicable
251 laws of the State of Georgia.

252 **SECTION 1.04.**

253 Exercise of powers.

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

258 **SECTION 1.05.**

259 Tourism, conventions, and trade shows.

260 The Brookhaven Convention and Visitors Bureau is hereby created.

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ARTICLE II
GOVERNMENT STRUCTURE, ELECTIONS,
AND LEGISLATIVE BRANCH
SECTION 2.01.

City council creation; number; election.

(a) The legislative authority of the government of the City of Brookhaven, except as otherwise specifically provided in this Act, shall be vested in a city council of which the mayor shall be a voting member.

(b)(1) The city council of Brookhaven, Georgia shall consist of six members, plus the mayor.

(2) There shall be three council districts, designated Council Districts 1 through 3, of roughly equal population to be established after the decennial census by the General Assembly.

(3) One councilmember shall be elected from each of the three council districts and shall hold Council Posts 1, 2, and 3, respectively. Each person desiring to offer as a candidate for councilmember for such posts shall designate the council post for which he or she is offering. Councilmembers for such posts shall be elected by a majority vote of the qualified electors of the respective council districts voting at the elections of the city. In the event that no candidate for a council post obtains a majority vote of the qualified electors of the council district voting in the election, then a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election for such council post will be included in the run-off election. The person receiving the highest number of votes of the qualified electors of the council district voting at such run-off election shall be elected. Each candidate for election to the city council must reside in the district he or she seeks to represent.

(4) Three councilmembers shall be elected from the city at large and shall represent Council Posts 4, 5, and 6. Candidates offering for election to Council Post 4 shall reside in Council District 1, candidates offering for election to Council Post 5 shall reside in Council District 2, and candidates offering for election to Council Post 6 shall reside in Council District 3. Each person desiring to offer as a candidate for councilmember for such posts shall designate the council post for which he or she is offering. Councilmembers for such posts shall be elected by a majority vote of the qualified electors of the entire city voting at the elections of the city. In the event that no candidate for a council post obtains a majority vote of the qualified electors of the entire city voting in the election, then a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election for such council post will be included in the

297 run-off election. The person receiving the highest number of votes of the qualified
298 electors of the city voting at such run-off election shall be elected.

299 (c) With the exception of the initial terms set forth in subsection (d) of this section,
300 councilmembers shall be elected to terms of four years and until their successors are elected
301 and qualified on a staggered basis in alternate election cycles such that every two years three
302 councilmembers are up for election.

303 (d) In order to assure staggered elections of the councilmembers, in the first election of the
304 city council the terms for the candidates elected for Council Posts 1, 2, and 3 shall expire
305 upon the administration of the oath of office to their successors elected in the regular
306 elections held in November, 2013, as provided in subsection (b) of Section 2.02 of this
307 charter. The terms for the candidates elected for Council Posts 4, 5, and 6 shall expire upon
308 the administration of the oath of office to their successors elected in the regular elections held
309 in November, 2015, as provided in subsection (b) of Section 2.02 of this charter. Thereafter,
310 a successor to each councilmember shall be elected at the November election immediately
311 preceding the end of such councilmember's term of office and the term of each
312 councilmember shall expire upon the administration of the oath of office to his or her
313 successor.

314 (e) With the exception of the initial term of office, the mayor of the City of Brookhaven,
315 with the powers and duties specified herein, shall be elected to a term of four years and until
316 his or her successor is elected and qualified. The mayor shall be elected by a majority vote
317 of the qualified electors of the city at large voting at the elections of the city. In the event
318 that no candidate for mayor obtains a majority vote of the qualified electors of the city at
319 large voting at the elections of the city, then a run-off election shall be held. The candidates
320 receiving the two highest numbers of votes in the election shall be included in the run-off
321 election and the candidate receiving the highest number of votes in the runoff of the qualified
322 electors of the city at large voting at such runoff shall be elected. The term of the first
323 elected mayor shall expire upon the administration of the oath of office to his or her
324 successor elected in the regular election held in November, 2015, as provided in
325 subsection (b) of Section 2.02 of this charter. Thereafter, a successor to each mayor shall be
326 elected at the November election immediately preceding the end of such mayor's term of
327 office and the term of each mayor shall expire upon the administration of the oath of office
328 to his or her successor.

329

SECTION 2.02.

330

Mayor and councilmembers; terms and qualifications for office.

331 (a) For all elections subsequent to the first election, the mayor and councilmembers shall
 332 serve for terms of four years and until their terms shall expire upon the administration of the
 333 oath of office to their successors. No person shall be eligible to serve as mayor or
 334 councilmember unless that person shall have been a resident of the City of Brookhaven for
 335 a continuous period of at least 12 months immediately prior to the date of the election for
 336 mayor or councilmember, shall continue to reside therein during that person's period of
 337 service, and shall continue to be registered and qualified to vote in municipal elections of the
 338 City of Brookhaven. In addition to the above requirements, no person shall be eligible to
 339 serve as a councilmember representing a council district unless that person has been a
 340 resident of the district such person seeks to represent for a continuous period of at least six
 341 months immediately prior to the date of the election for councilmember and continues to
 342 reside in such district during that person's period of service.

343 (b) An election shall be held on the Tuesday after the first Monday in November, 2012, to
 344 elect the first mayor and city council. At such election, the first mayor and council shall be
 345 elected to serve for the initial terms of office specified in subsections (d) and (e) of Section
 346 2.01 of this charter. Thereafter, the time for holding regular municipal elections shall be on
 347 the Tuesday next following the first Monday in November of each odd-numbered year
 348 beginning in 2013.

349 (c) The number of consecutive terms an individual may hold a position as a councilmember
 350 shall be unlimited.

351 (d) The number of consecutive terms an individual may hold the position of mayor shall be
 352 limited to two terms.

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SECTION 2.03.

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Vacancy; filling of vacancies; suspensions.

355 (a) Elected officials of the city cannot hold other elective or public offices. The elective
 356 offices of the city's government shall become vacant upon the member's death, resignation,
 357 forfeiture of office, or removal from office. The following shall result in an elected city
 358 official forfeiting his or her office:

359 (1) Violating the provisions of this charter;

360 (2) Being convicted of, or pleading guilty or "no contest" to, a felony or a crime of moral
 361 turpitude; or

362 (3) Failing to attend one-third of the regular meetings of the council in a three-month
363 period without being excused by the council.

364 (b) The office of mayor shall become vacant upon the incumbent's death, resignation,
365 forfeiture of office, or removal from office in any manner authorized by this charter or the
366 general laws of the State of Georgia. A vacancy in the office of mayor shall be filled for the
367 remainder of the unexpired term by a special election if such vacancy occurs 12 months or
368 more prior to the expiration of the term of that office. If such vacancy occurs within 12
369 months of the expiration of the term of that office, the city council or those members
370 remaining shall appoint a successor for the remainder of the term. This provision shall also
371 apply to a temporary vacancy created by the suspension from office of the mayor.

372 (c) The office of a councilmember shall become vacant upon the incumbent's death,
373 resignation, forfeiture of office, or removal from office in any manner authorized by this
374 charter or the general laws of the State of Georgia. A vacancy in the office of a
375 councilmember shall be filled for the remainder of the unexpired term by a special election
376 if such vacancy occurs 12 months or more prior to the expiration of the term of that office.
377 If such vacancy occurs within 12 months of the expiration of the term of that office, the
378 mayor shall appoint a successor for the remainder of the term subject to the approval of the
379 city council or those members remaining. This provision shall also apply to a temporary
380 vacancy created by the suspension from office of a councilmember.

381 **SECTION 2.04.**

382 Nonpartisan elections.

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

385 **SECTION 2.05.**

386 Election votes.

387 The candidates for mayor and city council who receive a majority vote of the qualified
388 electors of the city at large voting at the elections of the city shall be elected to a term of
389 office.

390 **SECTION 2.06.**

391 Applicability of general laws; qualifying; other provisions.

392 All elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the
393 O.C.G.A., the "Georgia Election Code," as now or hereafter amended or otherwise provided
394 by law. Except as otherwise provided by this charter, the city council shall, by ordinance or
395 resolution, prescribe such rules and regulations as it deems appropriate, including but not
396 limited to the establishment of qualifying fees, to fulfill any options and duties under Chapter
397 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended or
398 otherwise provided by law.

399 **SECTION 2.07.**

400 Compensation and expenses.

401 The annual salary of the mayor shall be \$16,000.00 and the annual salary for each
402 councilmember shall be \$12,000.00. Such salaries shall be paid from municipal funds in
403 monthly installments. The mayor shall be provided an annual expense allowance of
404 \$5,000.00 and each councilmember shall be provided an annual expense allowance of
405 \$3,000.00 for the reimbursement of expenses actually and necessarily incurred by the mayor
406 and councilmembers in carrying out their duties as elected officials of the city.

407 **SECTION 2.08.**

408 Inquiries and investigations.

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

414 **SECTION 2.09.**

415 Meetings, oath of office, and mayor pro tempore.

416 (a) The city council shall meet on the first working day in January immediately following
417 each regular municipal election. The meeting shall be called to order by the mayor-elect and
418 the oath of office shall be administered to the newly elected mayor and councilmembers

419 collectively by a judicial officer authorized to administer oaths. The oath shall, to the extent
420 that it comports with federal and state law, be as follows:

421 "I do solemnly swear (or affirm) that I will faithfully execute the office of [councilmember
422 or mayor, as the case may be] of the City of Brookhaven, and will to the best of my ability
423 support and defend the Constitution of the United States, the Constitution of Georgia, and
424 the charter, ordinances, and regulations of the City of Brookhaven. I am not the holder of
425 any unaccounted for public money due this state or any political subdivision or authority
426 thereof. I am not the holder of any office of trust under the government of the United
427 States, any other state, or any foreign state which I by the laws of the State of Georgia am
428 prohibited from holding. I am otherwise qualified to hold said office according to the
429 Constitution and laws of Georgia. I have been a resident of my district and the City of
430 Brookhaven for the time required by the Constitution and laws of this state and by the
431 municipal charter. I will perform the duties of my office in the best interests of the City
432 of Brookhaven to the best of my ability without fear, favor, affection, reward, or
433 expectation thereof."

434 (b) Following the induction of the mayor and councilmembers, the city council, by a
435 majority vote of the councilmembers, shall elect a councilmember to be mayor pro tempore,
436 who shall serve for a term of two years and until a successor is elected and qualified. The
437 number of successive terms an individual may hold a position as mayor pro tempore shall
438 be unlimited.

439 (c) The mayor pro tempore shall assume the duties and powers of the mayor during the
440 mayor's temporary disability, suspension, or absence. If the mayor pro tempore is absent
441 because of sickness or disqualification, any one of the remaining councilmembers, chosen
442 by the councilmembers present, shall be clothed with all the rights and privileges of the
443 mayor as described herein and shall perform the mayor's duties in the same manner as the
444 mayor pro tempore.

445 (d) The city council shall, at least once a month, hold regular meetings at such times and
446 places as prescribed by ordinance. The city council may recess any regular meeting and
447 continue such meeting on any day or hour it may fix and may transact any business at such
448 continued meeting as may be transacted at any regular meeting.

449 (e) Special meetings of the city council may be held on the call of either the mayor and one
450 councilmember or three councilmembers. Notice of such special meetings shall be delivered
451 to all councilmembers, the mayor, and the city manager personally, by registered mail, or by
452 electronic means at least 24 hours in advance of the meeting. Such notice shall not be
453 required if the mayor, all councilmembers, and city manager are present when the special
454 meeting is called. Such notice of any special meeting may be waived by the mayor, a
455 councilmember, or the city manager in writing before or after such a meeting and attendance

456 at the meeting shall also constitute a waiver of notice. The notice of such special meeting
 457 shall state what business is to be transacted at the special meeting. Only the business stated
 458 in the call may be transacted at the special meeting.

459 **SECTION 2.10.**

460 Quorum; voting.

461 (a) Four councilmembers shall constitute a quorum and shall be authorized to transact
 462 business for the city council. The mayor shall be counted toward the making of a quorum.
 463 Voting on the adoption of ordinances shall be taken by voice vote and the yeas and nays shall
 464 be recorded in the minutes, but on the request of any member there shall be a roll-call vote.
 465 In order for any ordinance, resolution, motion, or other action of the city council to be
 466 adopted, the measure must receive at least three affirmative votes and must receive the
 467 affirmative votes of a majority of those voting. No councilmember, nor the mayor, shall
 468 abstain from voting on any matter properly brought before the city council for official action
 469 except when such councilmember has a reason which is disclosed in writing prior to or at the
 470 meeting and made a part of the minutes. If any councilmember or the mayor is present and
 471 eligible to vote on a matter and refuses to do so for a reason he or she will not disclose, he
 472 or she shall be deemed to have voted with the majority of the votes of the other
 473 councilmembers on the issue involved. If there is a tie in the vote of the voting
 474 councilmembers, then the mayor and each councilmember shall be required to vote unless
 475 he or she discloses a reason for not voting. The mayor shall have one vote on all matters
 476 brought before the council.

477 (b) The following types of actions require an ordinance in order to have the force of law:
 478 (1) Adopting or amending an administrative code or establishing, altering or abolishing
 479 a department, office not specified in this charter, or agency;
 480 (2) Providing fine or other penalty;
 481 (3) Levying taxes;
 482 (4) Granting, renewing, or extending a franchise;
 483 (5) Regulating a rate for a public utility;
 484 (6) Authorizing the borrowing of money;
 485 (7) Conveying, leasing, or encumbering city land;
 486 (8) Regulating land use and development; and
 487 (9) Amending or repealing an ordinance already adopted.
 488 (c) The city council shall establish by ordinance procedures for convening emergency
 489 meetings. In an emergency, an ordinance may be passed without notice or hearings if the city

490 council passes the ordinance by three-fourths' vote; provided, however, that the city council
 491 cannot in an emergency meeting:

- 492 (1) Levy taxes;
- 493 (2) Grant, renew, or extend a franchise;
- 494 (3) Regulate a rate for a public utility; or
- 495 (4) Borrow money.

496 **SECTION 2.11.**

497 General power and authority of the city council.

498 (a) Except as otherwise provided by law or by this charter, the city council shall be vested
 499 with all the powers of government of the City of Brookhaven as provided by Article I of this
 500 charter.

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

508 **SECTION 2.12.**

509 Administrative and service departments.

510 (a) Except for the office of city manager and the elected positions provided for in this
 511 charter, the city council, by ordinance, may establish, abolish, merge, or consolidate offices
 512 not specified in this charter, positions of employment, departments, and agencies of the city
 513 as it shall deem necessary for the proper administration of the affairs and government of the
 514 city. The city council shall prescribe the functions and duties of existing departments,
 515 offices, and agencies or of any departments, offices, and agencies hereinafter created or
 516 established; may provide that the same person shall fill any number of offices and positions
 517 of employment; and may transfer or change the functions and duties of offices, positions of
 518 employment, departments, and agencies of the city.

519 (b) The operations and responsibilities of each department now or hereafter established in
 520 the city shall be distributed among such divisions or bureaus as may be provided by
 521 ordinance of the city council. Each department shall consist of such officers, employees, and

522 positions as may be provided by this charter or by ordinance and shall be subject to the
523 general supervision and guidance of the mayor and city council.

524 **SECTION 2.13.**

525 Prohibitions.

526 (a) No elected official, appointed officer, or employee of the city or any agency or political
527 entity to which this charter applies shall knowingly:

528 (1) Engage in any business or transaction or have a financial or other personal interest,
529 direct or indirect, which is incompatible with the proper discharge of official duties or
530 which would tend to impair the independence of his or her judgment or action in the
531 performance of official duties;

532 (2) Engage in or accept private employment or render services for private interests when
533 such employment or service is incompatible with the proper discharge of official duties
534 or would tend to impair the independence of his or her judgment or action in the
535 performance of official duties;

536 (3) Disclose confidential information concerning the property, government, or affairs of
537 the governmental body by which engaged without proper legal authorization or use such
538 information to advance the financial or other private interest of himself or herself or
539 others, except as required by law;

540 (4) Accept any valuable gift, whether in the form of service, loan, object, or promise,
541 from any person, firm, or corporation which to his or her knowledge is interested, directly
542 or indirectly, in any manner whatsoever in business dealings with the governmental body
543 by which he or she is engaged. "Valuable" shall be an amount determined by the city
544 council; provided, however, that the amount shall not exceed \$100.00;

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

547 (6) Vote or otherwise participate in the negotiation or in the making of any contract with
548 any business or entity in which he or she, or members of his or her immediate family, has
549 a financial interest.

550 (b) Any elected official, appointed officer, or employee who has any private financial
551 interest, directly or indirectly, in any contract or matter pending before or within any
552 department of the city shall disclose such private interest to the city council. "Private
553 financial interest" shall include interests of immediate family. The mayor or any
554 councilmember who has a private interest in any matter pending before the city council shall
555 disclose in writing such private interest and such disclosure shall be entered on the records
556 of the city council, and he or she shall disqualify himself or herself from participating in any

557 decision or vote relating thereto. Any elected official, appointed officer, or employee of any
 558 agency or political entity to which this charter applies who shall have any private financial
 559 interest, directly or indirectly, in any contract or matter pending before or within such entity
 560 shall disclose such private interest to the governing body of such agency or entity.

561 (c) No elected official, appointed officer, or employee of the city or any agency or entity to
 562 which this charter applies shall use property owned by such governmental entity for personal
 563 benefit, convenience, or profit, except in accordance with policies promulgated by the city
 564 council or the governing body of such agency or entity.

565 (d) Any violation of this section which occurs with the knowledge, express or implied, of
 566 a party to a contract or sale shall render said contract or sale voidable at the option of the city
 567 council.

568 (e) Except as authorized by law, no member of the city council shall hold any other elective
 569 city office or be employed by any city or county government during the term for which
 570 elected.

571 **SECTION 2.14.**

572 **Boards, commissions, and authorities.**

573 (a) All members of boards, commissions, and authorities of the city shall be appointed by
 574 the mayor subject to confirmation by the city council for such terms of office and such
 575 manner of appointment as provided by ordinance, except where other appointing authority,
 576 term of office, or manner of appointment is prescribed by this charter or by applicable state
 577 law.

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

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

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

589 (e) Any member of a board, commission, or authority may be removed from office for cause
 590 by a vote of a majority of the councilmembers in accordance with state laws.

591 (f) Members of boards, commissions, and authorities may receive such compensation and
 592 expenses in the performance of their official duties as prescribed by ordinance.

593 (g) Except as otherwise provided by this charter or by applicable state law, each board,
 594 commission, or authority of the city government shall elect one of its members as
 595 chairperson and one member as vice chairperson for terms of one year and may elect as its
 596 secretary one of its own members or may appoint as secretary an employee of the city. Each
 597 board, commission, or authority of the city government may establish such bylaws, rules, and
 598 regulations not inconsistent with this charter, ordinances of the city, or applicable state law
 599 as it deems appropriate and necessary for the conduct of its affairs, copies of which shall be
 600 filed with the designated officer of the city.

601 **SECTION 2.15.**

602 Ordinance form; procedures.

603 (a) Every proposed ordinance and resolution shall be introduced in writing and the city
 604 council shall have the authority to approve, disapprove, or amend the same. A resolution
 605 may be passed at the time it is offered, but an ordinance shall not be adopted until the title
 606 of said ordinance shall have been read at two city council meetings, provided that the
 607 beginnings of said meetings are not less than 24 hours nor more than 60 days apart. This
 608 requirement of two readings shall not apply to emergency ordinances, to ordinances passed
 609 during the first 90 days from the date on which the city begins operation, to ordinances
 610 adopted at the first business meeting of the city council in a calendar year, or to ordinances
 611 adopted at the first meeting of the initial city council elected under subsection (b) of Section
 612 2.02 of this charter. The catchlines of sections of this charter or any ordinance printed in
 613 boldface type, italics, or otherwise are intended as mere catchwords to indicate the contents
 614 of the section, and:

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

617 (2) Shall not be so deemed when any of such sections, including the catchlines, are
 618 amended or reenacted unless expressly provided to the contrary.

619 Furthermore, the article and section headings contained in this charter shall not be deemed
 620 to govern, limit, or modify or in any manner affect the scope, meaning, or intent of the
 621 provisions of any article or section hereof.

622 (d) The city council may, by ordinance or resolution, adopt rules and bylaws to govern the
 623 conduct of its business, including procedures and penalties for compelling the attendance of
 624 absent councilmembers. Such rules may include punishment for contemptuous behavior
 625 conducted in the presence of the city council.

626 **SECTION 2.16.**

627 Submission of ordinances to the city clerk.

628 (a) Every ordinance, resolution, and other action adopted by the city council shall be
 629 presented to the city clerk within 15 days of its adoption or approval. The city clerk shall
 630 record upon the ordinance the date of its delivery from the city council.

631 (b) An ordinance or resolution that has been passed by the city council shall become
 632 effective on the date the ordinance is passed by the city council or on such other date as may
 633 be specified in the ordinance.

634 **ARTICLE III**635 **EXECUTIVE BRANCH**636 **SECTION 3.01.**

637 Powers and duties of the mayor.

638 (a) The mayor shall:

639 (1) Preside over all meetings of the city council;

640 (2) Set the agenda for meetings of the city council after receiving input from members
 641 of the city council, the city manager, and the public; provided, however, that an additional
 642 item shall be added to the agenda upon the written request of any member of the city
 643 council;

644 (3) Serve as the ceremonial head of the city and as its official representative to federal,
 645 state, and local governmental bodies and officials;

646 (4) Sign all orders, checks, and warrants for payment of money within a level of
 647 authorization as established by the city council;

648 (5) Execute all contracts, deeds, and other obligations of the city within a level of
 649 authorization as established by the city council;

650 (6) Vote in all matters before the city council as provided in subsection (a) of Section
 651 2.10 of this charter;

652 (7) Make all appointments of city officers as provided by this charter, subject to
 653 confirmation by the city council;

654 (8) Serve in a part-time capacity and be compensated accordingly; and

655 (9) Perform any other duties and exercise any other powers required by state or federal
 656 law or authorized by a duly adopted ordinance that is not in conflict with this charter.

657 (b) The mayor shall have the authority to transfer appropriations within a department, fund,
 658 service, strategy, or organizational unit but only with approval of the city council.

659 (c) The mayor shall have the authority to certify that a supplemental appropriation is
660 possible due to unexpected revenue increases but only with approval of the city council.

661 (d) The mayor shall have all of the powers specifically granted to the mayor elsewhere in
662 this charter regardless of whether such powers are enumerated in this section.

663 **SECTION 3.02.**

664 City manager; appointment and qualification.

665 The mayor shall appoint, subject to confirmation by the city council, an officer whose title
666 shall be the "city manager." The city manager shall be appointed without regard to political
667 beliefs and solely on the basis of his or her education and experience in the accepted
668 competencies and practices of local government management.

669 **SECTION 3.03.**

670 City manager; chief administrative officer.

671 The city manager shall be the chief administrative officer of the government of the city. The
672 city manager must devote all of his or her working time and attention to the affairs of the city
673 and shall be responsible to the mayor and city council for the proper and efficient
674 administration of the affairs of the city over which said officer has jurisdiction.

675 **SECTION 3.04.**

676 City manager; powers and duties enumerated.

677 The city manager shall have the power and it shall be his or her duty to:

678 (1) See that all laws and ordinances are enforced;

679 (2) Appoint and employ all necessary employees of the city, provided that the power of
680 this appointment shall not include officers and employees who by this charter are
681 appointed or elected by the mayor and the city council or departments not under the
682 jurisdiction of the city manager;

683 (3) Remove employees appointed and employed under paragraph (2) of this section
684 without the consent of the city council and without assigning any reason therefor;

685 (4) Exercise supervision and control of all departments and all divisions created in this
686 charter or that may hereafter be created by the city council except as otherwise provided
687 in this charter;

688 (5) Attend all meetings of the city council, without a right to vote, but with a right to take
689 part in the discussions as seen fit by the chair; provided, however, that regardless of the

690 decision of the meeting chair, the city manager may take part in any discussion and report
691 on any matter requested and approved by the city council at such meeting. The city
692 manager shall be entitled to notice of all special meetings;

693 (6) Recommend to the city council, after prior review and comment by the mayor, for
694 adoption of such measures as the city manager may deem necessary or expedient;

695 (7) See that all terms and conditions imposed in favor of the city or its inhabitants in any
696 public utility franchise are faithfully kept and performed and upon knowledge of any
697 violation thereof to call the same to the attention of the city attorney, whose duty it shall
698 be forthwith to take such steps as are necessary to protect and enforce the same;

699 (8) Make and execute all lawful contracts on behalf of the city as to matters within the
700 city manager's level of authorization as established by the city council to the extent that
701 such contracts are funded in the city's budget, except such as may be otherwise provided
702 by law; provided, however, that no contract purchase or obligation requiring a budget
703 amendment shall be valid and binding until after approval of the city council;

704 (9) Sign all orders, checks, and warrants for payment of money within the city manager's
705 level of authorization as established by the city council to the extent that such contracts
706 are funded in the city's budget, except such as may be otherwise provided by law;
707 provided, however, that no such order, check, or warrant requiring a budget amendment
708 shall be valid and binding until after approval of the city council;

709 (10) Act as budget officer to prepare and submit to the city council, after review and
710 comment by the mayor, prior to the beginning of each fiscal year a budget of proposed
711 expenditures for the ensuing year, showing in as much detail as practicable the amounts
712 allotted to each department of the city government and the reasons for such estimated
713 expenditures;

714 (11) Keep the city council at all times fully advised as to the financial condition and
715 needs of the city;

716 (12) Make a full written report to the city council on the fifteenth of each month showing
717 the operations and expenditures of each department of the city government for the
718 preceding month, and a synopsis of such reports shall be published by the city clerk;

719 (13) Fix all salaries and compensation of city employees in accordance with the city
720 budget and the city pay and classification plan; and

721 (14) Perform such other duties as may be prescribed by this charter or required by
722 ordinance or resolution of the city council.

723

SECTION 3.05.

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City council interference with administration.

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

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SECTION 3.06.

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City manager; removal.

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

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

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

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

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(b) The city manager shall continue to receive his or her salary until the effective date of a final resolution of his or her removal. The action of the city council in suspending or removing the city manager shall not be subject to review by any court or agency.

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

757

SECTION 3.07.

758

Acting city manager.

759 (a) The mayor with the approval of the city council may appoint any person to exercise all
 760 powers, duties, and functions of the city manager during the city manager's suspension under
 761 subsection (a) of Section 3.06, temporary absence from the city, or during the city manager's
 762 disability.

763 (b) In the event of a vacancy in the office of city manager, the mayor may designate with the
 764 approval of the city council a person as acting city manager, who shall exercise all powers,
 765 duties, and functions of the city manager until a city manager is appointed.

766

SECTION 3.08.

767

City attorney.

768 The mayor shall appoint the city attorney together with such assistant city attorneys as may
 769 be deemed appropriate subject to confirmation by the city council and shall provide for the
 770 payment of such attorney for services rendered to the city. The rates or salary paid to any
 771 city attorney or assistant city attorney shall be approved in advance by the city council. The
 772 city attorney shall be responsible for representing and defending the city in all litigation in
 773 which the city is a party; may be the prosecuting officer in the municipal court; shall attend
 774 the meetings of the city council as directed; shall advise the city council, mayor, other
 775 officers, and employees of the city concerning legal aspects of the city's affairs; and shall
 776 perform such other duties as may be required by virtue of his or her position as city attorney.
 777 The city attorney shall review all contracts of the city but shall not have the power to bind
 778 the city.

779

SECTION 3.09.

780

City clerk.

781 The mayor may appoint a city clerk subject to confirmation by the city council to keep a
 782 journal of the proceedings of the city council; to maintain in a safe place all records and
 783 documents pertaining to the affairs of the city; and to perform such duties as may be required
 784 by law or ordinance or as the mayor or city manager may direct.

785 **SECTION 3.10.**

786 Tax collector.

787 The mayor may appoint a tax collector subject to confirmation by the city council to collect
788 all taxes, licenses, fees, and other moneys belonging to the city subject to the provisions of
789 this charter and the ordinances of the city; and the tax collector shall diligently comply with
790 and enforce all general laws of Georgia relating to the collection, sale, or foreclosure of taxes
791 by municipalities.

792 **SECTION 3.11.**

793 City accountant.

794 The mayor may appoint a city accountant subject to confirmation by the city council to
795 perform the duties of an accountant.

796 **SECTION 3.12.**

797 City internal auditor.

798 The city council shall appoint an internal auditor to audit the financial records and
799 expenditures of city funds and to report the results of such audits in writing to the city
800 council at times and intervals set by the city council but no less than quarterly. Such audit
801 reports shall, at a minimum, identify all city expenditures and other financial matters that the
802 internal auditor either determines are not in compliance with or cannot conclusively be
803 determined to be in compliance with the provisions of this charter, the applicable city budget,
804 and applicable ordinances, resolutions, or other actions duly adopted or approved under the
805 provisions of this charter.

806 **SECTION 3.13.**

807 Consolidation of functions.

808 The city manager, with the approval of the city council, may consolidate any two or more of
809 the positions of city clerk, city tax collector, and city accountant, or any other positions, or
810 may assign the functions of any one or more of such positions to the holder or holders of any
811 other positions. The city manager may also, with the approval of the city council, perform
812 all or any part of the functions of any of the positions or offices in lieu of the appointment
813 of other persons to perform the same.

814 **SECTION 3.14.**

815 Position classification and pay plans; employment at will.

816 The city manager shall be responsible for the preparation of a position classification and a
 817 pay plan which shall be submitted to the city council for approval. Said plan may apply to
 818 all employees of the City of Brookhaven and any of its agencies and offices. When a pay
 819 plan has been adopted by the city council, neither the city council nor the city manager shall
 820 increase or decrease the salaries of individual employees except in conformity with such pay
 821 plan or pursuant to an amendment of said pay plan duly adopted by the city council. Except
 822 as otherwise provided in this charter, all employees of the city shall be subject to removal or
 823 discharge, with or without cause, at any time.

824 **ARTICLE IV**
 825 **MUNICIPAL COURT**

826 **SECTION 4.01.**

827 Creation.

828 There is established a court to be known as the Municipal Court of the City of Brookhaven
 829 which shall have jurisdiction and authority to try offenses against the laws and ordinances
 830 of said city and to punish for a violation of the same. Such court shall have the power to
 831 enforce its judgments by the imposition of such penalties as may be provided by law,
 832 including ordinances of the city; to punish witnesses for nonattendance and to punish also
 833 any person who may counsel or advise, aid, encourage, or persuade another whose testimony
 834 is desired or material in any proceeding before said court to go or move beyond the reach of
 835 the process of the court; to try all offenses within the territorial limits of the city constituting
 836 traffic cases which, under the laws of Georgia, are placed within the jurisdiction of municipal
 837 courts to the extent of, and in accordance with, the provisions of such laws and all laws
 838 subsequently enacted amendatory thereof. Said court shall be presided over by the judge of
 839 said court. In the absence or disqualification of the judge, the judge pro tempore shall
 840 preside and shall exercise the same powers and duties as the judge when so acting.

841 **SECTION 4.02.**

842 Judge.

843 (a) No person shall be qualified or eligible to serve as judge unless he or she shall have
 844 attained the age of 28 years and shall have been a member of the State Bar of Georgia for a
 845 minimum of three years. The judge shall be nominated by the mayor subject to approval by

846 the city council. The compensation and number of the judges shall be fixed by the city
847 council.

848 (b) The judge pro tempore shall serve as requested by the judge, shall have the same
849 qualifications as the judge, shall be nominated by the mayor subject to approval of the city
850 council, and shall take the same oath as the judge.

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

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

- 859 (1) Willful misconduct in office;
- 860 (2) Willful and persistent failure to perform duties;
- 861 (3) Habitual intemperance;
- 862 (4) Conduct prejudicial to the administration of justice which brings the judicial office
863 into disrepute; or
- 864 (5) Disability seriously interfering with the performance of duties which is, or is likely
865 to become, of a permanent character.

866 **SECTION 4.03.**

867 Convening.

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

870 **SECTION 4.04.**

871 Jurisdiction; powers.

872

873 (a) The municipal court shall try and punish for crimes against the City of Brookhaven and
874 for violation of its ordinances. The municipal court may fix punishment for offenses within
875 its jurisdiction to the fullest extent allowed by state law.

876 (b) The municipal court shall have authority to recommend to the city council for approval
877 a schedule of fees to defray the cost of operation.

878 (c) The municipal court shall have authority to establish bail and recognizances to ensure
879 the presence of those charged with violations before said court and shall have discretionary

880 authority to accept cash or personal or real property as security for appearances of persons
 881 charged with violations. Whenever any person shall give bail for his or her appearance and
 882 shall fail to appear at the time fixed for trial, the bond shall be forfeited to the judge presiding
 883 at such time and an execution issued thereon by serving the defendant and his or her sureties
 884 with a rule nisi at least two days before a hearing on the rule nisi. In the event that cash or
 885 property is accepted in lieu of bond for security for the appearance of a defendant at trial, and
 886 if such defendant fails to appear at the time and place fixed for trial, the cash so deposited
 887 shall be on order of the judge declared forfeited to the City of Brookhaven, or the property
 888 so deposited shall have a lien against it for the value forfeited.

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

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

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

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

899 **SECTION 4.05.**

900 **Certiorari.**

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

905 **SECTION 4.06.**

906 **Rules for court.**

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

941 (d) All unencumbered balances of appropriations in the current operating budget at the end
 942 of the fiscal year shall lapse into the unappropriated surplus or reserves of the fund or funds
 943 from which such appropriations were made. When a supplemental appropriation is certified
 944 by the city manager to exist, these appropriations can be spent during the current fiscal year
 945 following passage of a supplemental appropriation ordinance.

946 **SECTION 5.04.**

947 Action by city council on budget.

948 (a) The city council may amend the operating budget or capital budget proposed by the city
 949 manager in accordance with subsection (a) of Section 5.03 of this charter except that the
 950 budget, as finally amended and adopted, must provide for all expenditures required by law
 951 or by other provisions of this charter and for all debt service requirements for the ensuing
 952 fiscal year; and the total appropriations from any fund shall not exceed the estimated fund
 953 balance, reserves, and revenues constituting the fund availability of such fund.

954 (b) The city council shall adopt a budget on or before the first day of the eleventh month of
 955 the fiscal year currently ending. If the city council fails to adopt the budget by the prescribed
 956 deadline, the operating budget and capital budget proposed by the mayor and city manager
 957 shall be adopted without further action by the city council.

958 **SECTION 5.05.**

959 Procurement and property management.

960 No contract with the city shall be binding on the city unless it is in writing. The city council
 961 may adopt procedures for the authorization of certain contracts without city attorney review
 962 or city council approval. Absent the foregoing, no contract with the city shall be binding on
 963 the city unless:

- 964 (1) It is drawn or submitted and reviewed by the city attorney and, as a matter of course,
 965 is signed by the city attorney to indicate such drafting or review; and
 966 (2) It is made or authorized by the city council and such approval is entered in the city
 967 council journal of proceedings.

968 **SECTION 5.06.**

969 Purchasing.

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

972 **SECTION 5.07.**

973 Audits.

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

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

981 **SECTION 5.08.**

982 Homestead exemption; freeze.

983 (a) As used in this section, the term:

984 (1) "Ad valorem taxes for municipal purposes" means all municipal ad valorem taxes for
 985 municipal purposes levied by, for, or on behalf of the City of Brookhaven, including, but
 986 not limited to, ad valorem taxes to pay interest on and to retire municipal bonded
 987 indebtedness.

988 (2) "Base year" means the taxable year immediately preceding the taxable year in which
 989 the exemption under this section is first granted to the most recent owner of such
 990 homestead.

991 (3) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of
 992 the O.C.G.A., as amended, with the additional qualification that it shall include not more
 993 than five contiguous acres of homestead property.

994 (b) Each resident of the City of Brookhaven is granted an exemption on that person's
 995 homestead from City of Brookhaven ad valorem taxes for municipal purposes in an amount
 996 equal to the amount by which the current year assessed value of that homestead exceeds the
 997 base year assessed value of that homestead. This exemption shall not apply to taxes assessed
 998 on improvements to the homestead or additional land that is added to the homestead after
 999 January 1 of the base year. If any real property is added to or removed from the homestead,
 1000 the base year assessed value shall be adjusted to reflect such addition or removal, and the
 1001 exemption shall be recalculated accordingly. The value of that property in excess of such
 1002 exempted amount shall remain subject to taxation.

1003 (c) A person shall not receive the homestead exemption granted by subsection (b) of this
 1004 section unless the person or person's agent files an application with the governing authority
 1005 of the City of Brookhaven, or the designee thereof, giving such information relative to

1006 receiving such exemption as will enable the governing authority of the City of Brookhaven,
 1007 or the designee thereof, to make a determination regarding the initial and continuing
 1008 eligibility of such owner for such exemption. The governing authority of the City of
 1009 Brookhaven, or the designee thereof, shall provide application forms for this purpose.

1010 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of
 1011 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year
 1012 so long as the owner occupies the residence as a homestead. After a person has filed the
 1013 proper application as provided in subsection (c) of this section, it shall not be necessary to
 1014 make application thereafter for any year, and the exemption shall continue to be allowed to
 1015 such person. It shall be the duty of any person granted the homestead exemption under
 1016 subsection (b) of this section to notify the governing authority of the City of Brookhaven, or
 1017 the designee thereof, in the event that person for any reason becomes ineligible for that
 1018 exemption.

1019 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state
 1020 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent
 1021 school district ad valorem taxes for educational purposes. The homestead exemption granted
 1022 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead
 1023 exemption applicable to municipal ad valorem taxes for municipal purposes.

1024 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years
 1025 beginning on or after January 1, 2013.

1026 **SECTION 5.09.**

1027 Homestead exemption; senior citizens; disabled.

1028 (a) As used in this section, the term:

1029 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal
 1030 purposes levied by, for, or on behalf of the City of Brookhaven, including, but not limited
 1031 to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

1032 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of
 1033 the O.C.G.A., as amended.

1034 (3) "Income" means Georgia taxable net income determined pursuant to Chapter 7 of
 1035 Title 48 of the O.C.G.A., as amended, for state income tax purposes, except income shall
 1036 not include income received as retirement, survivor, or disability benefits under the
 1037 federal Social Security Act or under any other public or private retirement, disability, or
 1038 pension system, except such income which is in excess of the maximum amount
 1039 authorized to be paid to an individual and such individual's spouse under the federal

1040 Social Security Act. Income from such sources in excess of such maximum amount shall
1041 be included as income for the purposes of this Act.

1042 (4) "Senior citizen" means a person who is 65 years of age or over on or before January 1
1043 of the year in which application for the exemption under subsection (b) of this section is
1044 made.

1045 (b) Each resident of the City of Brookhaven who is disabled or is a senior citizen is granted
1046 an exemption on that person's homestead from City of Brookhaven ad valorem taxes for
1047 municipal purposes in the amount of \$14,000.00 of the assessed value of that homestead.
1048 The exemption granted by this subsection shall only be granted if that person's income,
1049 together with the income of the spouse who also occupies and resides at such homestead does
1050 not exceed \$15,000.00 for the immediately preceding year. The value of that property in
1051 excess of such exempted amount shall remain subject to taxation.

1052 (c)(1) In order to qualify for the exemption provided for in subsection (b) of this section
1053 as being disabled, the person claiming such exemption shall be required to obtain a
1054 certificate from not more than three physicians licensed to practice medicine under
1055 Chapter 34 of Title 43 of the O.C.G.A., as amended, certifying that in the opinion of such
1056 physician or physicians such person is mentally or physically incapacitated to the extent
1057 that such person is unable to be gainfully employed and that such incapacity is likely to
1058 be permanent. Such certificate or certificates shall constitute part of and be submitted
1059 with the application provided for in paragraph (2) of this subsection.

1060 (2) A person shall not receive the homestead exemption granted by subsection (b) of this
1061 section unless the person or person's agent files an application with the governing
1062 authority of the City of Brookhaven, or the designee thereof, giving the person's age,
1063 income, and such additional information relative to receiving such exemption as will
1064 enable the governing authority of the City of Brookhaven, or the designee thereof, to
1065 make a determination regarding the initial and continuing eligibility of such owner for
1066 such exemption. The governing authority of the City of Brookhaven, or the designee
1067 thereof, shall provide application forms for this purpose.

1068 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of
1069 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year
1070 so long as the owner occupies the residence as a homestead. After a person has filed the
1071 proper application, as provided in subsection (c) of this section, it shall not be necessary to
1072 make application thereafter for any year and the exemption shall continue to be allowed to
1073 such person. It shall be the duty of any person granted the homestead exemption under
1074 subsection (b) of this section to notify the governing authority of the City of Brookhaven, or
1075 the designee thereof, in the event that person for any reason becomes ineligible for that
1076 exemption.

1077 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state
 1078 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent
 1079 school district ad valorem taxes for educational purposes. The homestead exemption granted
 1080 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead
 1081 exemption applicable to municipal ad valorem taxes for municipal purposes.

1082 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years
 1083 beginning on or after January 1, 2013.

1084 **SECTION 5.10.**

1085 Homestead exemption; general.

1086 (a) As used in this section, the term:

1087 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal
 1088 purposes levied by, for, or on behalf of the City of Brookhaven, including, but not limited
 1089 to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

1090 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of
 1091 the O.C.G.A., as amended.

1092 (b) Each resident of the City of Brookhaven is granted an exemption on that person's
 1093 homestead from City of Brookhaven ad valorem taxes for municipal purposes in the amount
 1094 of \$10,000.00 of the assessed value of that homestead. The value of that property in excess
 1095 of such exempted amount shall remain subject to taxation.

1096 (c) A person shall not receive the homestead exemption granted by subsection (b) of this
 1097 section unless the person or person's agent files an application with the governing authority
 1098 of the City of Brookhaven, or the designee thereof, giving such information relative to
 1099 receiving such exemption as will enable the governing authority of the City of Brookhaven,
 1100 or the designee thereof, to make a determination regarding the initial and continuing
 1101 eligibility of such owner for such exemption. The governing authority of the City of
 1102 Brookhaven, or the designee thereof, shall provide application forms for this purpose.

1103 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of
 1104 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year
 1105 so long as the owner occupies the residence as a homestead. After a person has filed the
 1106 proper application, as provided in subsection (c) of this section, it shall not be necessary to
 1107 make application thereafter for any year and the exemption shall continue to be allowed to
 1108 such person. It shall be the duty of any person granted the homestead exemption under
 1109 subsection (b) of this section to notify the governing authority of the City of Brookhaven, or
 1110 the designee thereof, in the event that person for any reason becomes ineligible for that
 1111 exemption.

1112 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state
 1113 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent
 1114 school district ad valorem taxes for educational purposes. The homestead exemption granted
 1115 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead
 1116 exemption applicable to municipal ad valorem taxes for municipal purposes.

1117 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years
 1118 beginning on or after January 1, 2013.

1119 **SECTION 5.11.**

1120 Homestead exemption; surviving spouses.

1121 (a) As used in this section, the term:

1122 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal
 1123 purposes levied by, for, or on behalf of the City of Brookhaven, including, but not limited
 1124 to, ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

1125 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of
 1126 the O.C.G.A., as amended.

1127 (3) "Unremarried surviving spouse" of a member of the armed forces includes the
 1128 unmarried widow or widower of a member of the armed forces who is receiving spousal
 1129 benefits from the United States Department of Veterans Affairs.

1130 (b) Any person who is a resident of the City of Brookhaven and who is an unremarried
 1131 surviving spouse of a member of the armed forces of the United States who has been killed
 1132 in or has died as a result of any war or armed conflict in which the armed forces of the United
 1133 States engaged, whether under United States command or otherwise, shall be granted a
 1134 homestead exemption from all City of Brookhaven ad valorem taxation for municipal
 1135 purposes in the amount of the greater of \$32,500.00 or the maximum amount which may be
 1136 granted to a disabled veteran under Section 2102 of Title 38 of the United States Code, as
 1137 amended. As of January 1, 2006, the maximum amount which may be granted to a disabled
 1138 veteran under Section 2102 of Title 38 of the United States Code, as amended, is \$50,000.00.
 1139 The exemption shall be on the homestead which the unremarried surviving spouse owns and
 1140 actually occupies as a residence and homestead. In the event such surviving spouse
 1141 remarries, such person shall cease to be qualified to continue the exemption under this
 1142 section effective December 31 of the taxable year in which such person remarries. The value
 1143 of all property in excess of such exemption granted to such unremarried surviving spouse
 1144 shall remain subject to taxation.

1145 (c) In order to qualify for the exemption provided for in this section, the unremarried
 1146 surviving spouse shall furnish to the governing authority of the City of Brookhaven, or the

1147 designee thereof, documents from the United States Secretary of Defense evidencing that
1148 such unremarried surviving spouse receives spousal benefits as a result of the death of such
1149 person's spouse who as a member of the armed forces of the United States was killed or died
1150 as a result of a war or armed conflict while on active duty or while performing authorized
1151 travel to or from active duty during such war or armed conflict in which the armed forces of
1152 the United States engaged, whether under United States command or otherwise, pursuant to
1153 the Survivor Benefit Plan under Subchapter II of Chapter 73 of Title 10 of the United States
1154 Code or pursuant to any preceding or subsequent federal law which provides survivor
1155 benefits for spouses of members of the armed forces who were killed or who died as a result
1156 of any war or armed conflict.

1157 (d) An unremarried surviving spouse filing for the exemption under this section shall be
1158 required to file with the governing authority of the City of Brookhaven, or the designee
1159 thereof, information relative to marital status and other such information which the governing
1160 authority of the City of Brookhaven, or the designee thereof, deems necessary to determine
1161 eligibility for the exemption. Each unremarried surviving spouse shall file for the exemption
1162 only once with the governing authority of the City of Brookhaven, or the designee thereof.
1163 Once filed, the exemption shall automatically be renewed from year to year, except that the
1164 governing authority of the City of Brookhaven, or the designee thereof, may require annually
1165 that the holder of an exemption substantiate his or her continuing eligibility for the
1166 exemption. It shall be the duty of any person granted the homestead exemption under this
1167 section to notify the governing authority of the City of Brookhaven, or the designee thereof,
1168 in the event that person for any reason becomes ineligible for such exemption.

1169 (e) The exemption granted by this section shall be in lieu of and not in addition to any other
1170 exemption from ad valorem taxation for municipal purposes which is equal to or lower in
1171 amount than such exemption granted by this section. If the amount of any other exemption
1172 from ad valorem taxation for municipal purposes applicable to any resident qualifying under
1173 this section is greater than or is increased to an amount greater than the amount of the
1174 applicable exemption granted by this section, such other exemption shall apply and shall be
1175 in lieu of and not in addition to the exemption granted by this section.

1176 (f) The exemptions granted by this section shall apply to all tax years beginning on or after
1177 January 1, 2013.

SECTION 5.12.

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Homestead exemption; one mill equivalent.

1180 (a) As used in this section, the term:

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(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Brookhaven, including, but not limited to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

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(b) Each resident of the City of Brookhaven is granted an exemption on that person's homestead from City of Brookhaven ad valorem taxes for municipal purposes in an amount that provides the dollar equivalent of a one mill reduction of the millage rate applicable to the homestead property with respect to ad valorem taxes for municipal purposes for the taxable year. The value of that property in excess of such exempted amount shall remain subject to taxation.

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(c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Brookhaven, or the designee thereof, giving such information relative to receiving such exemption as will enable the governing authority of the City of Brookhaven, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Brookhaven, or the designee thereof, shall provide application forms for this purpose.

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(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application, as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Brookhaven, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

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(e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

1213 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years
 1214 beginning on or after January 1, 2013.

1215 **ARTICLE VI**

1216 **GENERAL PROVISIONS.**

1217 **SECTION 6.01.**

1218 DeKalb County Special Services Tax District.

1219 For the taxable years beginning on or after January 1, 2013, the adjusted ad valorem tax
 1220 millage rate and amount for service charges or fees for district services for the Brookhaven
 1221 special services tax district shall be zero percent. This section is enacted pursuant to the
 1222 authority granted to the General Assembly under Section 1 of that local constitutional
 1223 amendment providing that certain municipalities in DeKalb County shall constitute special
 1224 services tax districts, Resolution Act. No. 168; House Resolution No. 715-1916; Ga. L. 1978,
 1225 p. 2468, to control the subject matter of such local constitutional amendment. Municipal
 1226 services provided by DeKalb County for the City of Brookhaven will be established through
 1227 intergovernmental agreements or established as otherwise authorized by statute.

1228 **SECTION 6.02.**

1229 Referendum and initial election.

1230 (a) Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election
 1231 superintendent of DeKalb County shall call a special election for the purpose of submitting
 1232 this Act to the qualified voters of the proposed City of Brookhaven for approval or rejection.
 1233 The superintendent shall set the date of such election for the date of the general primary
 1234 in 2012. The superintendent shall issue the call for such election at least 30 days prior to the
 1235 date thereof. The superintendent shall cause the date and purpose of the election to be
 1236 published once a week for two weeks immediately preceding the date thereof in the official
 1237 organ of DeKalb County. The ballot shall have written or printed thereon the words:

1238 "() YES Shall the Act incorporating the City of Brookhaven in DeKalb County
 1239 according to the charter contained in the Act and the homestead exemptions
 1240 () NO described in the Act be approved?"

1241 All persons desiring to vote for approval of the Act shall vote "Yes," and those persons
 1242 desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes
 1243 cast on such question are for approval of the Act, it shall become of full force and effect as
 1244 provided in this charter, otherwise it shall be void and of no force and effect. The initial
 1245 expense of such election shall be borne by DeKalb County. Within two years after the

1246 elections if the incorporation is approved, the City of Brookhaven shall reimburse DeKalb
 1247 County for the actual cost of printing and personnel services for such election and for the
 1248 initial election of the mayor and councilmembers pursuant to Section 2.02 of this charter.
 1249 It shall be the duty of the superintendent to hold and conduct such election. It shall be his
 1250 or her further duty to certify the result thereof to the Secretary of State.

1251 (b) For the purposes of the referendum election provided for in subsection (a) of this section
 1252 and for the purposes of the special election of the City of Brookhaven to be held on the
 1253 Tuesday after the first Monday in November, 2012, the qualified electors of the City of
 1254 Brookhaven shall be those qualified electors of DeKalb County residing within the corporate
 1255 limits of the City of Brookhaven as described by Appendix A of this charter. At subsequent
 1256 municipal elections, the qualified electors of the City of Brookhaven shall be determined
 1257 pursuant to the authority of Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election
 1258 Code."

1259 (c) Only for the purposes of holding and conducting the referendum election provided for
 1260 by subsection (a) of this section and holding and conducting the special election of the City
 1261 of Brookhaven to be held on the Tuesday after the first Monday in November, 2012, the
 1262 election superintendent of DeKalb County is vested with the powers and duties of the
 1263 election superintendent of the City of Brookhaven and the powers and duties of the
 1264 governing authority of the City of Brookhaven.

1265 **SECTION 6.03.**

1266 Effective dates and transition.

1267 (a) The initial mayor and councilmembers shall take the oath of office the next business day
 1268 after certification of the election of such officers, and by action of any four members of the
 1269 governing authority may, prior to January 1, 2013, meet and take actions binding on the city.

1270 (b) A period of time will be needed for an orderly transition of various government functions
 1271 from DeKalb County to the City of Brookhaven. Accordingly there shall be a two-year
 1272 transition period as allowed by law beginning at 12:01 A.M. on January 1, 2013.

1273 (c) During such transition period, DeKalb County shall continue to provide within the
 1274 territorial limits of the city all government services and functions which DeKalb County
 1275 provided in 2012 and at the same actual direct cost and level of service, except to the extent
 1276 otherwise provided in this section; provided, however, that upon at least 30 days' prior
 1277 written notice to the governing authority of DeKalb County by the governing authority of
 1278 City of Brookhaven, responsibility for any such service or function shall be transferred to the
 1279 City of Brookhaven. The governing authority of the City of Brookhaven shall determine the
 1280 date of commencement of collection of taxes, fees, assessments, fines and forfeitures, and

1281 other moneys within the territorial limits of the city and the date upon which the City of
1282 Brookhaven is considered removed from the special tax district.

1283 (d) During the transition period, the governing authority of the City of Brookhaven may
1284 generally exercise any power granted by this charter or general law, except to the extent that
1285 a power is specifically and integrally related to the provision of a governmental service,
1286 function, or responsibility not yet provided or carried out by the city.

1287 (e) During the transition period, all ordinances of DeKalb County shall remain applicable
1288 within the territorial limits of the city unless otherwise amended, repealed, or replaced by the
1289 City of Brookhaven. Any transfer of jurisdiction to the City of Brookhaven during or at the
1290 end of the transition period shall not in and of itself abate any judicial proceeding pending
1291 in DeKalb County or the pending prosecution of any violation of any ordinance of DeKalb
1292 County.

1293 (f) During the transition period, the governing authority of the City of Brookhaven may at
1294 any time, without the necessity of any agreement by DeKalb County, commence to exercise
1295 its planning and zoning powers; provided, however, that the city shall give the county notice
1296 of the date on which the city will assume the exercise of such powers. Upon the governing
1297 authority of the City of Brookhaven commencing to exercise its planning and zoning powers,
1298 the Municipal Court of the City of Brookhaven shall immediately have jurisdiction to enforce
1299 the planning and zoning ordinances of the city. The provisions of this subsection shall control
1300 over any conflicting provisions of any other subsection of this section.

1301 (g) Effective upon the termination of the transition period, subsections (b) through (f) of this
1302 section shall cease to apply except for the last sentence of subsection (e) which shall remain
1303 effective. Effective upon the termination of the transition period, the City of Brookhaven
1304 shall be a full functioning municipal corporation and subject to all general laws of this state.

1305 **SECTION 6.04.**

1306 Directory nature of dates.

1307 It is the intention of the General Assembly that this Act be construed as directory rather than
1308 mandatory with respect to any date prescribed in this Act. If it is necessary to delay any
1309 action called for in this Act for providential cause, delay in securing approval under the
1310 federal Voting Rights Act, or any other reason, it is the intention of the General Assembly
1311 that the action be delayed rather than abandoned. Any delay in performing any action under
1312 this Act, whether for cause or otherwise, shall not operate to frustrate the overall intent of this
1313 Act. Without limiting the generality of the foregoing it is specifically provided that if it is
1314 not possible to hold the referendum election provided for in Section 6.02 of this Act on the
1315 date specified in that section, then such referendum shall be held as soon thereafter as is

1316 reasonably practicable but not later than 45 days after securing approval under the federal
1317 Voting Rights Act. If the referendum election provided for in Section 6.02 of this Act is
1318 conducted on or before August 7, 2012, the special election for the initial members of the
1319 governing authority shall be conducted on the date specified in Section 2.02 of this Act. If
1320 the referendum election provided for under Section 6.02 of this Act is conducted after
1321 August 7, 2012, then the special election for the initial members of the governing authority
1322 shall be held as soon thereafter as is reasonably practicable, and the commencement of the
1323 initial terms of office shall be delayed accordingly. If the first election provided for in
1324 Section 2.02 of this Act occurs after the Tuesday following the first Monday in November,
1325 2012, the city council shall be authorized to delay the dates otherwise specified in
1326 Section 6.03 of this Act.

1327 **SECTION 6.05.**

1328 Charter commission.

1329 No later than five years after the inception of the City of Brookhaven, the mayor and the city
1330 council shall call for a charter commission to review the city's experience and recommend
1331 to the General Assembly any changes to the charter. Members of the charter commission
1332 shall be appointed as follows: one by the mayor, one by the city council, and one by each
1333 member of the Georgia House of Representatives or Senate whose district lies wholly or
1334 partially within the corporate boundaries of the city. All members of the charter commission
1335 must reside in the City of Brookhaven. The commission must complete the
1336 recommendations within the time frame required by the city council.

1337 **SECTION 6.06.**

1338 Severability.

1339 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
1340 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
1341 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full
1342 force and effect, as if the section, subsection, sentence, clause, or phrase so declared or
1343 adjudged invalid or unconstitutional were not originally a part hereof. The General
1344 Assembly hereby declares that it would have passed the remaining parts of this Act if it had
1345 known that such part or parts hereof would be declared or adjudged invalid or
1346 unconstitutional.

1347 **SECTION 6.07.**

1348 Effective date.

1349 This Act shall become effective upon its approval by the Governor or upon its becoming law
1350 without such approval.

1351 **SECTION 6.08.**

1352 Repealer.

1353 All laws and parts of laws in conflict with this Act are repealed.

1354 APPENDIX A
1355 LEGAL DESCRIPTION
1356 CORPORATE LIMITS
1357 CITY OF BROOKHAVEN, DEKALB COUNTY, GEORGIA

1358 Beginning at the intersection of the southerly right-of-way of Interstate 85 and the boundary
1359 of Fulton and DeKalb Counties; thence northerly along the boundary of Fulton and DeKalb
1360 Counties to the southerly city limits of the City of Dunwoody; thence northeasterly and
1361 continuing along the city limits of the City of Dunwoody to the westerly city limits of the
1362 City of Chamblee; thence southerly and continuing along the city limits of the City of
1363 Chamblee to the easterly right-of-way of Clairmont Road at the point such right-of-way exits
1364 in a southerly direction from the southerly city limits of the City of Chamblee; thence
1365 southerly along the easterly right-of-way of Clairmont Road to the southerly right-of-way of
1366 Interstate 85; thence southwesterly along the southerly right-of-way of Interstate 85 to the
1367 boundary of Fulton and DeKalb Counties.

1368

APPENDIX C

1369

CERTIFICATE AS TO MINIMUM STANDARDS

1370

FOR INCORPORATION OF A NEW MUNICIPAL CORPORATION

1371 I, Representative Mike Jacobs, Georgia State Representative from the 80th District and the
 1372 author of this bill introduced at the 2011 session of the General Assembly of Georgia, which
 1373 grants an original municipal charter to the City of Brookhaven, do hereby certify that this bill
 1374 is in compliance with the minimum standards required by Chapter 31 of Title 36 of the
 1375 O.C.G.A. in that the area embraced within the original incorporation in this bill is in all
 1376 respects in compliance with the minimum standards required by Chapter 31 of Title 36 of the
 1377 O.C.G.A.

1378 This certificate is executed to conform to the requirements of Code Section 36-31-5 of the
 1379 O.C.G.A.

1380 So certified this ____ day of _____, 2011.

1381

1382

 Honorable Mike Jacobs

1383

Representative, 80th District

1384

Georgia House of Representatives