

House Bill 1090

By: Representatives Mitchell of the 88th, Mosby of the 90th, Stephenson of the 92nd, Dawkins-Haigler of the 93rd, Kendrick of the 94th, and others

A BILL TO BE ENTITLED
AN ACT

1 To incorporate the City of DeKalb in DeKalb County; to provide for a charter for the City
2 of DeKalb; to provide for incorporation, boundaries, and powers of the city; to provide for
3 general powers and limitations on powers; to provide for a governing authority of such city
4 and the powers, duties, authority, election, terms, method of filling vacancies, compensation,
5 expenses, qualifications, prohibitions, and districts relative to members of such governing
6 authority; to provide for inquiries and investigations; to provide for organization and
7 procedures; to provide for ordinances; to provide for codes; to provide for a charter
8 commission; to provide for the office of mayor and certain duties and powers relative to the
9 office of mayor; to provide for administrative responsibilities; to provide for boards,
10 commissions, and authorities; to provide for a city manager, a city attorney, a city clerk, a
11 tax collector, a city accountant, and other personnel; to provide for a municipal court and the
12 judge or judges thereof; to provide for practices and procedures; to provide for ethics and
13 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 the unincorporated areas of DeKalb
19 County to the City of DeKalb; to provide for related matters; to provide for severability; to
20 provide an effective date; to repeal conflicting 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 DeKalb, Georgia. The City of DeKalb,
 27 Georgia, in the County of DeKalb, and the inhabitants thereof, are constituted and declared
 28 a body politic and corporate under the same name and style of the "City of DeKalb" and by
 29 that name shall have perpetual succession, may sue and be sued, plead and be impleaded, in
 30 all courts of law and equity, and in all actions whatsoever, and may have and use a common
 31 seal.

32 SECTION 1.02.

33 Corporate boundaries.

34 The boundaries of the City of DeKalb shall be those unincorporated areas of DeKalb County
 35 as of the effective date of this Act. The city clerk shall maintain a current map and written
 36 legal description of the corporate boundaries of the city, and such map and description shall
 37 incorporate any changes which may hereafter be made in such corporate boundaries.

38 SECTION 1.03.

39 Powers and construction.

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

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

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

52 (2) Appropriations and expenditures. To make appropriations for the support of the
 53 government of the city; to authorize the expenditure of money for any purposes

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

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

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

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

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

125 (12) General health, safety, and welfare. To define, regulate, and prohibit any act,
126 practice, conduct, or use of property which is detrimental to health, sanitation,

127 cleanliness, welfare, and safety of the inhabitants of the city, and to provide for the
128 enforcement of such standards;

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

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

134 (15) Homestead Exemption. To establish and maintain procedures for offering
135 homestead exemptions to residents of the city and maintaining current homestead
136 exemptions of residents of the city as authorized by Act of the General Assembly;

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

143 (17) Motor vehicles. To regulate the operation of motor vehicles and exercise control
144 over all traffic, including parking upon or across the streets, roads, alleys, and walkways
145 of the city;

146 (18) Municipal agencies and delegation of power. To create, alter, or abolish
147 departments, boards, offices not specified in this charter, commissions, authorities, and
148 agencies of the city, and to confer upon such agencies the necessary and appropriate
149 authority for carrying out all the powers conferred upon or delegated to the same;

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

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

156 (21) Municipal property protection. To provide for the preservation and protection of
157 property and equipment of the city and the administration and use of same by the public;
158 and to prescribe penalties and punishment for violations thereof;

159 (22) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose
160 of public utilities, including but not limited to a system of waterworks, sewers and drains,
161 sewage disposal, storm-water management, gasworks, electricity generating plants, cable
162 television and other telecommunications, transportation facilities, public airports, and any
163 other public utility; to fix the taxes, charges, rates, fares, fees, assessments, regulations,

164 and penalties; and to provide for the withdrawal of service for refusal or failure to pay the
165 same;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

219 (A) The millage rate imposed for ad valorem taxes on real property shall not exceed
220 3.04 unless a higher limit is recommended by resolution of the city council and
221 approved by a majority of the qualified voters of the City of DeKalb voting on the
222 issue; and

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

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

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

233 (40) Tourism, Conventions, and Trade Shows. To contract with private sector nonprofit
234 organizations or other governmental agencies to promote tourism, conventions, and trade
235 shows.

236 (41) Urban redevelopment. To organize and operate an urban redevelopment program;
237 and

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

249 **SECTION 1.04.**

250 Exercise of powers.

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

255 **ARTICLE II**

256 **GOVERNMENT STRUCTURE, ELECTIONS,**
 257 **AND LEGISLATIVE BRANCH**

258 **SECTION 2.01.**

259 City council creation; number; election.

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

263 (b)(1) The city council of DeKalb, Georgia shall consist of eight members, plus the
 264 mayor.

265 (2) There shall be six council districts, designated Council Districts 1 through 6.

266 (3) One councilmember shall be elected from each of the six council districts and shall
 267 hold Council Posts 1, 2, 3, 4, 5, and 6, respectively. Each person desiring to offer as a
 268 candidate for councilmember for such posts shall designate the council post for which he
 269 or she is offering. Councilmembers for such posts shall be elected by a majority vote of
 270 the qualified electors of the respective council districts voting at the elections of the city.

271 In the event that no candidate for a council post obtains a majority vote of the qualified
272 electors of the council district voting in the election, then a run-off election shall be held.
273 The candidates receiving the two highest numbers of votes in the election for such
274 council post will be included in the run-off election. The person receiving the highest
275 number of votes of the qualified electors of the council district voting at such run-off
276 election shall be elected. Each candidate for election to the city council must reside in
277 the district he or she seeks to represent.

278 (4) Two councilmembers shall be elected from the city at large and shall represent
279 Council Posts 7 and 8. Candidates offering for election to Council Posts 7 and 8 shall
280 reside in the boundaries of the City of DeKalb. Each person desiring to offer as a
281 candidate for councilmember for such posts shall designate the council post for which he
282 or she is offering. Councilmembers for such posts shall be elected by a majority vote of
283 the qualified electors of the entire city voting at the elections of the city. In the event that
284 no candidate for a council post obtains a majority vote of the qualified electors of the
285 entire city voting in the election, then a run-off election shall be held. The candidates
286 receiving the two highest numbers of votes in the election for such council post will be
287 included in the run-off election. The person receiving the highest number of votes of the
288 qualified electors of the city voting at such run-off election shall be elected.

289 (c) With the exception of the initial terms set forth in subsection (d) of this section,
290 councilmembers shall be elected to terms of four years and until their successors are elected
291 and qualified on a staggered basis in alternate election cycles such that every two years four
292 councilmembers are up for election. Except as otherwise specified in this Act, the terms of
293 office for the mayor and each councilmember shall begin on January 1 following the year in
294 which he or she was elected.

295 (d) In order to assure staggered elections of the councilmembers, in the first election of the
296 city council the terms for the candidates elected for Council Posts 1, 2, 3, and 7 shall expire
297 upon the administration of the oath of office to their successors elected in the regular
298 elections held in November, 2013, as provided in subsection (b) of Section 2.02. The terms
299 for the candidates elected for Council Posts 4, 5, 6, and 8 shall expire upon the administration
300 of the oath of office to their successors elected in the regular elections held in November
301 2015 as provided in subsection (b) of Section 2.02. Thereafter, a successor to each
302 councilmember shall be elected at the November election immediately preceding the end of
303 such councilmember's term of office and the term of each councilmember shall expire upon
304 the administration of the oath of office to his or her successor.

305 (e) With the exception of the initial term of office, a mayor of the City of DeKalb, with the
306 powers and duties specified herein, shall be elected to a term of four years and until his or
307 her successor is elected and qualified. The mayor shall be elected by a majority vote of the

308 qualified electors of the city at large voting at the elections of the city. In the event that no
309 candidate for mayor obtains a majority vote of the qualified electors of the city at large
310 voting at the elections of the city, then a run-off election shall be held. The candidates
311 receiving the two highest numbers of votes in the election shall be included in the run-off
312 election and the candidate receiving the highest number of votes in the runoff of the qualified
313 electors of the city at large voting at such runoff shall be elected. The term of the first
314 elected mayor shall expire upon the administration of the oath of office to his or her
315 successor elected in the regular election held in November, 2015, as provided in subsection
316 (b) of Section 2.02. Thereafter, a successor to each mayor shall be elected at the November
317 election immediately preceding the end of such mayor's term of office and the term of each
318 mayor shall expire upon the administration of the oath of office to his or her successor.

319 **SECTION 2.02.**

320 Mayor and councilmembers; terms and qualifications for office.

321 (a) For all elections subsequent to the first election, the mayor and councilmembers shall
322 serve for terms of four years and until their terms shall expire upon the administration of the
323 oath of office to their successors. For all elections subsequent to the first election, no person
324 shall be eligible to serve as mayor or councilmember unless that person shall have been a
325 resident of the City of DeKalb for a continuous period of at least 12 months immediately
326 prior to the date of the election for mayor or councilmember, shall continue to reside therein
327 during that person's period of service, and shall continue to be registered and qualified to vote
328 in municipal elections of the City of DeKalb. In addition to the above requirements, no
329 person shall be eligible to serve as a councilmember representing a council district unless that
330 person has been a resident of the district such person seeks to represent for a continuous
331 period of at least six months immediately prior to the date of the election for councilmember
332 and continues to reside in such district during that person's period of service.

333 (b) An election shall be held on the third Tuesday in September, 2012, to elect the first
334 mayor and city council. At such election, the first mayor and council shall be elected to
335 serve for the initial terms of office specified in Sections 2.01(d) and 2.01(e). Thereafter, the
336 time for holding regular municipal elections shall be on the Tuesday next following the first
337 Monday in November of each odd-numbered year beginning in 2013.

338 (c) The number of successive terms an individual may hold a position as a councilmember
339 shall be unlimited.

340 (d) The number of successive terms an individual may hold the position of Mayor shall be
341 limited to two terms. An individual who serves as mayor for either one term or two

342 consecutive terms, may stand for subsequent elections provided the individual is not the
343 mayor at time of such elections.

344 **SECTION 2.03.**

345 Vacancy; filling of vacancies; suspensions.

346 (a) Elected officials of the city cannot hold other elected or public offices. The elected
347 offices of the city's government will become vacant upon the member's death, resignation,
348 removal, or forfeiture of office. The following shall result in an elected city official
349 forfeiting his or her office:

350 (1) Violating the provisions of this charter;

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

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

355 (b) The office of mayor shall become vacant upon the incumbent's death, resignation,
356 forfeiture of office, or removal from office in any manner authorized by this Act or the
357 general laws of the State of Georgia. A vacancy in the office of mayor shall be filled for the
358 remainder of the unexpired term by a special election if such vacancy occurs 12 months or
359 more prior to the expiration of the term of that office. If such vacancy occurs within 12
360 months of the expiration of the term of that office, the city council or those members
361 remaining shall appoint a successor for the remainder of the term. This provision shall also
362 apply to a temporary vacancy created by the suspension from office of the mayor.

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

372 **SECTION 2.04.**

373 Nonpartisan elections.

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

376 **SECTION 2.05.**

377 Election votes.

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

381 **SECTION 2.06.**

382 Applicability of general laws; qualifying; other provisions.

383 All elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the
384 O.C.G.A., the "Georgia Election Code," as now or hereafter amended or otherwise provided
385 by law. Except as otherwise provided by this Act, the city council shall, by ordinance or
386 resolution, prescribe such rules and regulations as it deems appropriate, including but not
387 limited to the establishment of qualifying fees, to fulfill any options and duties under Chapter
388 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended or
389 otherwise provided by law.

390 **SECTION 2.07.**

391 Compensation and expenses.

392 The annual salary of the mayor shall be \$40,000.00 and the annual salary for each
393 councilmember shall be \$20,000.00. Such salaries shall be paid from municipal funds in
394 monthly installments. The mayor shall be provided an annual expense allowance of
395 \$5,000.00 and each councilmember shall be provided an annual expense allowance of
396 \$3,000.00 for the reimbursement of expenses actually and necessarily incurred by the mayor
397 and councilmembers in carrying out their duties as elected officials of the city.

398

SECTION 2.08.

399

Inquiries and investigations.

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

405

SECTION 2.09.

406

Meetings, oath of office, and mayor pro tempore.

407 (a) The city council shall meet on the first working day in January immediately following
 408 each regular municipal election. The meeting shall be called to order by the mayor-elect and
 409 the oath of office shall be administered to the newly elected mayor and councilmembers
 410 collectively by a judicial officer authorized to administer oaths. The oath shall, to the extent
 411 that it comports with federal and state law, be as follows:

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

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

430 (c) The mayor pro tempore shall assume the duties and powers of the mayor during the
 431 mayor's temporary disability, suspension, or absence. If the mayor pro tempore is absent

432 because of sickness or disqualification, any one of the remaining councilmembers, chosen
433 by the councilmembers present, shall be clothed with all the rights and privileges of the
434 mayor as described herein and shall perform the mayor's duties in the same manner as the
435 mayor pro tempore.

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

440 (e) Special meetings of the city council may be held on the call of either the mayor and one
441 councilmember or three councilmembers. Notice of such special meetings shall be delivered
442 to all councilmembers, the mayor, and the city manager personally, by registered mail, or by
443 electronic means at least 24 hours in advance of the meeting. Such notice shall not be
444 required if the mayor, all councilmembers, and city manager are present when the special
445 meeting is called. Such notice of any special meeting may be waived by the mayor, a
446 councilmember, or the city manager in writing before or after such a meeting and attendance
447 at the meeting shall also constitute a waiver of notice. The notice of such special meeting
448 shall state what business is to be transacted at the special meeting. Only the business stated
449 in the call may be transacted at the special meeting.

450 **SECTION 2.10.**

451 Quorum; voting.

452 (a) Five councilmembers shall constitute a quorum and shall be authorized to transact
453 business for the city council. The mayor shall be counted toward the making of a quorum.
454 Voting on the adoption of ordinances shall be taken by voice vote and the yeas and nays shall
455 be recorded in the minutes, but on the request of any member there shall be a roll-call vote.
456 In order for any ordinance, resolution, motion, or other action of the city council to be
457 adopted, the measure must receive at least three affirmative votes and must receive the
458 affirmative votes of a majority of those voting. No councilmember, nor the mayor, shall
459 abstain from voting on any matter properly brought before the city council for official action
460 except when such councilmember has a reason which is disclosed in writing prior to or at the
461 meeting and made a part of the minutes. If any councilmember or the mayor is present and
462 eligible to vote on a matter and refuses to do so for a reason he or she will not disclose he or
463 she shall be deemed to have voted with the majority of the votes of the other councilmembers
464 on the issue involved; provided further that if there is a tie in the vote of the voting
465 councilmembers, then the mayor and each councilmember shall be required to vote unless

466 he or she discloses a reason for not voting. The mayor shall have one vote on all matters
467 brought before the council.

468 (b) The following types of actions require an ordinance in order to have the force of law:

469 (1) Adopt or amend an administrative code or establish, alter or abolish a department,
470 office not specified in this charter, or agency;

471 (2) Provide for fine or other penalty;

472 (3) Levy taxes;

473 (4) Grant, renew, or extend a franchise;

474 (5) Regulate a rate for a public utility;

475 (6) Authorize the borrowing of money;

476 (7) Convey, lease or encumber city land;

477 (8) Regulate land use and development; and

478 (9) Amend or repeal an ordinance already adopted.

479 (c) The city council shall establish by ordinance procedures for convening emergency
480 meetings. In an emergency, an ordinance can be passed without notice or hearings if the city
481 council passes the ordinance by three-fourths vote; provided, however, that the city council
482 cannot in an emergency meeting:

483 (1) Levy taxes;

484 (2) Grant, renew, or extend a franchise;

485 (3) Regulate a rate for a public utility; or

486 (4) Borrow money.

487 **SECTION 2.11.**

488 General power and authority of the city council.

489 (a) Except as otherwise provided by law or by this charter, the city council shall be vested
490 with all the powers of government of the City of DeKalb as provided by Article I of this
491 charter.

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

499

SECTION 2.12.

500

Administrative and service departments.

501 (a) Except for the office of city manager and the elected positions provided for in this
 502 charter, the city council, by ordinance, may establish, abolish, merge, or consolidate offices
 503 not specified in this charter, positions of employment, departments, and agencies of the city
 504 as it shall deem necessary for the proper administration of the affairs and government of the
 505 city. The city council shall prescribe the functions and duties of existing departments,
 506 offices, and agencies or of any departments, offices, and agencies hereinafter created or
 507 established; may provide that the same person shall fill any number of offices and positions
 508 of employment; and may transfer or change the functions and duties of offices, positions of
 509 employment, departments, and agencies of the city.

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

515

SECTION 2.13.

516

Prohibitions.

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

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

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

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

531 (4) Accept any valuable gift, whether in the form of service, loan, object, or promise,
 532 from any person, firm, or corporation which to his or her knowledge is interested, directly

533 or indirectly, in any manner whatsoever in business dealings with the governmental body
 534 by which he or she is engaged; "Valuable" shall be an amount determined by the city
 535 council; provided, however, that the amount shall not exceed \$100.00;

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

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

541 (b) Any elected official, appointed officer, or employee who has any private financial
 542 interest, directly or indirectly, in any contract or matter pending before or within any
 543 department of the city shall disclose such private interest to the city council. "Private
 544 financial interest" shall include interests of immediate family. The mayor or any
 545 councilmember who has a private interest in any matter pending before the city council shall
 546 disclose in writing such private interest and such disclosure shall be entered on the records
 547 of the city council, and he or she shall disqualify himself or herself from participating in any
 548 decision or vote relating thereto. Any elected official, appointed officer, or employee of any
 549 agency or political entity to which this charter applies who shall have any private financial
 550 interest, directly or indirectly, in any contract or matter pending before or within such entity
 551 shall disclose such private interest to the governing body of such agency or entity.

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

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

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

562 **SECTION 2.14.**

563 **Boards, commissions, and authorities.**

564 (a) All members of boards, commissions, and authorities of the city shall be appointed by
 565 the mayor subject to confirmation by the city council for such terms of office and such
 566 manner of appointment as provided by ordinance, except where other appointing authority,

567 term of office, or manner of appointment is prescribed by this charter or by applicable state
568 law.

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

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

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

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

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

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

592

SECTION 2.15.

593

Ordinance form; procedures.

594 (a) Every proposed ordinance and resolution shall be introduced in writing and the city
595 council shall have the authority to approve, disapprove, or amend the same. A resolution
596 may be passed at the time it is offered, but an ordinance shall not be adopted until the title
597 of said ordinance shall have been read at two city council meetings, provided that the
598 beginning of said meetings be not less than 24 hours nor more than 60 days apart. This
599 requirement of two readings shall not apply to emergency ordinances, to ordinances passed
600 during the first 90 days from the date on which the city begins operation, to ordinances
601 adopted at the first business meeting of the city council in a calendar year, or to ordinances

602 adopted at the first meeting of the initial city council as elected under subsection (b) of
 603 Section 2.02. The catchlines of sections of this charter or any ordinance printed in boldface
 604 type, italics, or otherwise, are intended as mere catchwords to indicate the contents of the
 605 section, and:

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

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

610 Furthermore, the chapter, article, and section headings contained in this Act shall not be
 611 deemed to govern, limit, or modify or in any manner affect the scope, meaning, or intent of
 612 the provisions of any chapter, article, or section hereof.

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

617 **SECTION 2.16.**

618 Submission of ordinances to the city clerk.

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

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

625 **ARTICLE III**

626 **EXECUTIVE BRANCH**

627 **SECTION 3.01.**

628 Powers and duties of the mayor.

629 (a) The mayor shall:

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

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

- 635 (3) Serve as the ceremonial head of the city and as its official representative to federal,
 636 state, and local governmental bodies and officials;
- 637 (4) Sign all orders, checks, and warrants for payment of money within a level of
 638 authorization as established by the city council;
- 639 (5) Execute all contracts, deeds, and other obligations of the city within a level of
 640 authorization as established by the city council;
- 641 (6) Vote in all matters before the city council as provided in Section 2.10(a) of this
 642 charter;
- 643 (7) Make all appointments of city officers as provided by this charter, subject to
 644 confirmation by the city council;
- 645 (8) Serve in a part-time capacity and be compensated accordingly; and
- 646 (9) Perform any other duties and exercise any other powers required by state or federal
 647 law or authorized by a duly adopted ordinance that is not in conflict with this charter.
- 648 (b) The mayor shall have the authority to transfer appropriations within a department, fund,
 649 service, strategy or organizational unit but only with approval of the city council.
- 650 (c) The mayor shall have the authority to certify that a supplemental appropriation is
 651 possible due to unexpected revenue increases but only with approval of the city council.
- 652 (d) The mayor shall have all of the powers specifically granted to the mayor elsewhere in
 653 this charter regardless of whether such powers are enumerated in this Section 3.01.

654 **SECTION 3.02.**

655 City manager; appointment and qualification.

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

660 **SECTION 3.03.**

661 City manager; chief administrative officer.

662 The city manager, if so appointed, shall be the chief administrative officer of the government
 663 of the city. The city manager must devote all of his or her working time and attention to the
 664 affairs of the city and shall be responsible to the mayor and city council for the proper and
 665 efficient administration of the affairs of the city over which said officer has jurisdiction.

666

SECTION 3.04.

667

City manager; powers and duties enumerated.

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

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

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

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(3) Remove employees appointed and employed under Section 3.04(2), without the consent of the city council and without assigning any reason therefor;

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

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(5) Attend all meetings of the city council, without a right to vote, but with a right to take part in the discussions as seen fit by the chair; provided, however, that regardless of the decision of the meeting chair the city manager may take part in any discussion and report on any matter requested and approved by the city council at such meeting. The city manager shall be entitled to notice of all special meetings;

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

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

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

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

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(10) Act as budget officer to prepare and submit to the city council, after review and comment by the mayor, prior to the beginning of each fiscal year a budget of proposed

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

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

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

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

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

714 **SECTION 3.05.**

715 City council interference with administration.

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

721 **SECTION 3.06.**

722 City manager; removal.

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

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

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

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

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

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

748 **SECTION 3.07.**

749 Acting city manager.

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

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

756 **SECTION 3.08.**

757 City attorney.

758 The mayor shall appoint the city attorney(s) together with such assistant city attorneys as
 759 may be deemed appropriate subject to confirmation by the city council and shall provide for
 760 the payment of such attorney(s) for services rendered to the city. The rates or salary paid to
 761 any city attorney or assistant city attorney shall be approved in advance by the city council.
 762 The city attorney(s) shall be responsible for representing and defending the city in all
 763 litigation in which the city is a party; may be the prosecuting officer in the municipal court;
 764 shall attend the meetings of the city council as directed; shall advise the city council, mayor,
 765 other officers, and employees of the city concerning legal aspects of the city's affairs; and
 766 shall perform such other duties as may be required by virtue of his or her position as city

767 attorney. The city attorney(s) shall review all contracts of the city but shall not have the
768 power to bind the city.

769 **SECTION 3.09.**

770 City clerk.

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

775 **SECTION 3.10.**

776 Tax collector.

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

782 **SECTION 3.11.**

783 City accountant.

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

786 **SECTION 3.12.**

787 City internal auditor.

788 The city council shall appoint an internal auditor to audit the financial records and
789 expenditures of city funds and to report the results of such audits in writing to the city
790 council at times and intervals set by the city council but no less than quarterly. Such audit
791 reports shall, at a minimum, identify all city expenditures and other financial matters that the
792 internal auditor either determines are not in compliance with or cannot conclusively be
793 determined to be in compliance with (a) the provisions of this charter, (b) the applicable city
794 budget, and (c) applicable ordinances, resolutions, or other actions duly adopted or approved
795 under the provisions of this charter.

796

SECTION 3.13.

797

Consolidation of functions.

798 The city council may consolidate any two or more of the positions of city clerk, city tax
 799 collector, and city accountant, or any other positions or may assign the functions of any one
 800 or more of such positions to the holder or holders of any other positions. The city manager
 801 may also, with the approval of the city council, perform all or any part of the functions of any
 802 of the positions or offices in lieu of the appointment of other persons to perform the same.

803

SECTION 3.14.

804

Position classification and pay plans; employment at will.

805 The city council shall approve and adopt a pay plan. Said plan may apply to all employees
 806 of the City of DeKalb and any of its agencies and offices. When a pay plan has been adopted
 807 by the city council, neither the city council nor the city manager shall increase or decrease
 808 the salaries of individual employees except in conformity with such pay plan or pursuant to
 809 an amendment of said pay plan duly adopted by the city council. Except as otherwise
 810 provided in this charter, all employees of the city shall be subject to removal or discharge,
 811 with or without cause, at any time.

812

ARTICLE IV

813

MUNICIPAL COURT

814

SECTION 4.01.

815

Creation.

816 There is established a court to be known as the Municipal Court of the City of DeKalb which
 817 shall have jurisdiction and authority to try offenses against the laws and ordinances of said
 818 city and to punish for a violation of the same. Such court shall have the power to enforce its
 819 judgments by the imposition of such penalties as may be provided by law, including
 820 ordinances of the city; to punish witnesses for nonattendance and to punish also any person
 821 who may counsel or advise, aid, encourage, or persuade another whose testimony is desired
 822 or material in any proceeding before said court to go or move beyond the reach of the process
 823 of the court; to try all offenses within the territorial limits of the city constituting traffic cases
 824 which, under the laws of Georgia, are placed within the jurisdiction of municipal courts to
 825 the extent of, and in accordance with, the provisions of such laws and all laws subsequently
 826 enacted amendatory thereof. Said court shall be presided over by the judge of said court.

827 In the absence or disqualification of the judge, the judge pro tempore shall preside and shall
828 exercise the same powers and duties as the judge when so acting.

829 **SECTION 4.02.**

830 Judge(s).

831 (a) No person shall be qualified or eligible to serve as judge unless he or she shall have
832 attained the age of 28 years and shall have been a member of the State Bar of Georgia for a
833 minimum of five years. The judge(s) shall be nominated by the mayor subject to approval
834 by the city council. The compensation and number of the judges shall be fixed by the city
835 council.

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

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

844 (d) The judge, or judge pro tempore, shall serve for a term of four years but may be removed
845 from the position for:

- 846 (1) Willful misconduct in office;
- 847 (2) Willful and persistent failure to perform duties;
- 848 (3) Habitual intemperance;
- 849 (4) Conduct prejudicial to the administration of justice which brings the judicial office
850 into disrepute; or
- 851 (5) Disability seriously interfering with the performance of duties, which is, or is likely
852 to become, of a permanent character.

853 **SECTION 4.03.**

854 Convening.

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

SECTION 4.04.

Jurisdiction; powers.

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858
859
860 (a) The municipal court shall try and punish for crimes against the City of DeKalb and for
861 violation of its ordinances. The municipal court may fix punishment for offenses within its
862 jurisdiction to the fullest extent allowed by state law.

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

865 (c) The municipal court shall have authority to establish bail and recognizances to ensure
866 the presence of those charged with violations before said court and shall have discretionary
867 authority to accept cash or personal or real property as security for appearances of persons
868 charged with violations. Whenever any person shall give bail for his or her appearance and
869 shall fail to appear at the time fixed for trial, the bond shall be forfeited to the judge presiding
870 at such time and an execution issued thereon by serving the defendant and his or her sureties
871 with a rule nisi at least two days before a hearing on the rule nisi. In the event that cash or
872 property is accepted in lieu of bond for security for the appearance of a defendant at trial, and
873 if such defendant fails to appear at the time and place fixed for trial, the cash so deposited
874 shall be on order of the judge declared forfeited to the City of DeKalb, or the property so
875 deposited shall have a lien against it for the value forfeited.

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

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

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

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

SECTION 4.05.

Certiorari.

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887
888 The right of certiorari from the decision and judgment of the municipal court shall exist in
889 all criminal cases and ordinance violation cases, and such certiorari shall be obtained under
890 the sanction of a judge of the Superior Court of DeKalb County under the laws of the State
891 of Georgia regulating the granting and issuance of writs of certiorari.

892 **SECTION 4.06.**

893 Rules for court.

894 With the approval of the city council, the judge(s) shall have full power and authority to
895 make reasonable rules and regulations necessary and proper to secure the efficient and
896 successful administration of the municipal court.

897 **ARTICLE V**

898 **FINANCE AND FISCAL**

899 **SECTION 5.01.**

900 Fiscal year.

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

905 **SECTION 5.02.**

906 Preparation of budgets.

907 The city council shall provide, by ordinance, the procedures and requirements for the
908 preparation and execution of an annual operating budget and a capital budget, including
909 requirements as to the scope, content, and form of such budgets and programs.

910 **SECTION 5.03.**

911 Submission of operating budget to city council.

912 (a) On or before a date fixed by the city council, but no later than the first day of the ninth
913 month of the fiscal year currently ending, the city manager or city council shall, after input,
914 review and comment by the mayor, submit a proposed operating budget and capital budget
915 for the ensuing fiscal year. The budget shall be accompanied by a message from the mayor
916 containing a statement of the general fiscal policies of the city, the important features of the
917 budget, explanations of major changes recommended for the next fiscal year, a general
918 summary of the budget, and such other comments and information as they may deem
919 pertinent. The operating budget, capital budget, the budget message, and all supporting
920 documents shall be filed publicly and shall be open to public inspection.

921 (b) Beginning in the third year of the city's operation, the mayor shall be required to present
922 to the city council a budget which is balanced in projected spending and revenues.

923 (c) Prior to passage of the budget, the city council shall hold a special public hearing at
924 which the budget will be presented and public comment on the budget will be solicited. The
925 date, time and place of the special public hearing shall be announced no less than 30 days
926 prior to the scheduled date for such hearing.

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

932 **SECTION 5.04.**

933 Action by city council on budget.

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

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

944 **SECTION 5.05.**

945 Procurement and property management.

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

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

954 **SECTION 5.06.**

955 Purchasing.

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

958 **SECTION 5.07.**

959 Audits.

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

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

967 **SECTION 5.08.**

968 Homestead exemption; freeze.

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

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

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

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

980 (b) Each resident of the City of DeKalb is granted an exemption on that person's homestead
981 from City of DeKalb ad valorem taxes for municipal purposes in an amount equal to the
982 amount by which the current year assessed value of that homestead exceeds the base year
983 assessed value of that homestead. This exemption shall not apply to taxes assessed on
984 improvements to the homestead or additional land that is added to the homestead after

985 January 1 of the base year. If any real property is added to or removed from the homestead,
 986 the base year assessed value shall be adjusted to reflect such addition or removal, and the
 987 exemption shall be recalculated accordingly. The value of that property in excess of such
 988 exempted amount shall remain subject to taxation.

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

996 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of
 997 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year
 998 as long as the owner occupies the residence as a homestead. After a person has filed the
 999 proper application as provided in subsection (c) of this section, it shall not be necessary to
 1000 make application thereafter for any year, and the exemption shall continue to be allowed to
 1001 such person. It shall be the duty of any person granted the homestead exemption under
 1002 subsection (b) of this section to notify the governing authority of the City of DeKalb, or the
 1003 designee thereof, in the event that person for any reason becomes ineligible for that
 1004 exemption.

1005 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state
 1006 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent
 1007 school district ad valorem taxes for educational purposes. The homestead exemption granted
 1008 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead
 1009 exemption applicable to municipal ad valorem taxes for municipal purposes.

1010 **SECTION 5.09.**

1011 Homestead exemption; senior citizens; disabled.

1012 (a) As used in this section, the term:

1013 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal
 1014 purposes levied by, for, or on behalf of the City of DeKalb, including, but not limited to,
 1015 any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

1016 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of
 1017 the O.C.G.A., as amended.

1018 (3) "Income" means Georgia taxable net income determined pursuant to Chapter 7 of
 1019 Title 48 of the O.C.G.A., as amended, for state income tax purposes, except income shall

1020 not include income received as retirement, survivor, or disability benefits under the
1021 federal Social Security Act or under any other public or private retirement, disability, or
1022 pension system, except such income which is in excess of the maximum amount
1023 authorized to be paid to an individual and such individual's spouse under the federal
1024 Social Security Act. Income from such sources in excess of such maximum amount shall
1025 be included as income for the purposes of this Act.

1026 (4) "Senior citizen" means a person who is 65 years of age or over on or before January
1027 1 of the year in which application for the exemption under subsection (b) of this section
1028 is made.

1029 (b) Each resident of the City of DeKalb who is disabled or is a senior citizen is granted an
1030 exemption on that person's homestead from City of DeKalb ad valorem taxes for municipal
1031 purposes in the amount of \$14,000.00 of the assessed value of that homestead. The
1032 exemption granted by this subsection shall only be granted if that person's income, together
1033 with the income of the spouse who also occupies and resides at such homestead does not
1034 exceed \$50,000.00 for the immediately preceding year. The value of that property in excess
1035 of such exempted amount shall remain subject to taxation.

1036 (c)(1) In order to qualify for the exemption provided for in subsection (b) of this section
1037 as being disabled, the person claiming such exemption shall be required to obtain a
1038 certificate from not more than three physicians licensed to practice medicine under
1039 Chapter 34 of Title 43 of the O.C.G.A., as amended, certifying that in the opinion of such
1040 physician or physicians such person is mentally or physically incapacitated to the extent
1041 that such person is unable to be gainfully employed and that such incapacity is likely to
1042 be permanent. Such certificate or certificates shall constitute part of and be submitted
1043 with the application provided for in paragraph (2) of this subsection.

1044 (2) A person shall not receive the homestead exemption granted by subsection (b) of this
1045 section unless the person or person's agent files an application with the governing
1046 authority of the City of DeKalb, or the designee thereof, giving the person's age, income,
1047 and such additional information relative to receiving such exemption as will enable the
1048 governing authority of the City of DeKalb, or the designee thereof, to make a
1049 determination regarding the initial and continuing eligibility of such owner for such
1050 exemption. The governing authority of the City of DeKalb, or the designee thereof, shall
1051 provide application forms for this purpose.

1052 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of
1053 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year
1054 as long as the owner occupies the residence as a homestead. After a person has filed the
1055 proper application, as provided in subsection (c) of this section, it shall not be necessary to
1056 make application thereafter for any year and the exemption shall continue to be allowed to

1057 such person. It shall be the duty of any person granted the homestead exemption under
 1058 subsection (b) of this section to notify the governing authority of the City of DeKalb, or the
 1059 designee thereof, in the event that person for any reason becomes ineligible for that
 1060 exemption.

1061 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state
 1062 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent
 1063 school district ad valorem taxes for educational purposes. The homestead exemption granted
 1064 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead
 1065 exemption applicable to municipal ad valorem taxes for municipal purposes.

1066 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years
 1067 beginning on or after January 1, 2013.

1068 **SECTION 5.10.**

1069 Homestead exemption; general.

1070 (a) As used in this section, the term:

1071 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal
 1072 purposes levied by, for, or on behalf of the City of DeKalb, including, but not limited to,
 1073 any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

1074 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of
 1075 the O.C.G.A., as amended.

1076 (b) Each resident of the City of DeKalb is granted an exemption on that person's homestead
 1077 from City of DeKalb ad valorem taxes for municipal purposes in the amount of \$10,000.00
 1078 of the assessed value of that homestead. The value of that property in excess of such
 1079 exempted amount shall remain subject to taxation.

1080 (c) A person shall not receive the homestead exemption granted by subsection (b) of this
 1081 section unless the person or person's agent files an application with the governing authority
 1082 of the City of DeKalb, or the designee thereof, giving such information relative to receiving
 1083 such exemption as will enable the governing authority of the City of DeKalb, or the designee
 1084 thereof, to make a determination regarding the initial and continuing eligibility of such owner
 1085 for such exemption. The governing authority of the City of DeKalb, or the designee thereof,
 1086 shall provide application forms for this purpose.

1087 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of
 1088 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year
 1089 as long as the owner occupies the residence as a homestead. After a person has filed the
 1090 proper application, as provided in subsection (c) of this section, it shall not be necessary to
 1091 make application thereafter for any year and the exemption shall continue to be allowed to

1092 such person. It shall be the duty of any person granted the homestead exemption under
 1093 subsection (b) of this section to notify the governing authority of the City of DeKalb, or the
 1094 designee thereof, in the event that person for any reason becomes ineligible for that
 1095 exemption.

1096 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state
 1097 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent
 1098 school district ad valorem taxes for educational purposes. The homestead exemption granted
 1099 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead
 1100 exemption applicable to municipal ad valorem taxes for municipal purposes.

1101 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years
 1102 beginning on or after January 1, 2013.

1103 **SECTION 5.11.**

1104 Homestead exemption; surviving spouses.

1105 (a) As used in this section, the term:

1106 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal
 1107 purposes levied by, for, or on behalf of the City of DeKalb, including, but not limited to,
 1108 ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

1109 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of
 1110 the O.C.G.A., as amended.

1111 (3) "Unremarried surviving spouse" of a member of the armed forces includes the
 1112 unmarried widow or widower of a member of the armed forces who is receiving spousal
 1113 benefits from the United States Department of Veterans Affairs.

1114 (b) Any person who is a resident of the City of DeKalb and who is an unremarried surviving
 1115 spouse of a member of the armed forces of the United States, which member has been killed
 1116 in or has died as a result of any war or armed conflict in which the armed forces of the United
 1117 States engaged, whether under United States command or otherwise, shall be granted a
 1118 homestead exemption from all City of DeKalb ad valorem taxation for municipal purposes
 1119 in the amount of \$50,000.00. The exemption shall be on the homestead which the
 1120 unremarried surviving spouse owns and actually occupies as a residence and homestead. In
 1121 the event such surviving spouse remarries, such person shall cease to be qualified to continue
 1122 the exemption under this Act effective December 31 of the taxable year in which such person
 1123 remarries. The value of all property in excess of such exemption granted to such unremarried
 1124 surviving spouse shall remain subject to taxation.

1125 (c) In order to qualify for the exemption provided for in this Act, the unremarried surviving
 1126 spouse shall furnish to the governing authority of the City of DeKalb, or the designee thereof,

1127 documents from the Secretary of Defense evidencing that such unremarried surviving spouse
 1128 receives spousal benefits as a result of the death of such person's spouse who as a member
 1129 of the armed forces of the United States was killed or died as a result of a war or armed
 1130 conflict while on active duty or while performing authorized travel to or from active duty
 1131 during such war or armed conflict in which the armed forces of the United States engaged,
 1132 whether under United States command or otherwise, pursuant to the Survivor Benefit Plan
 1133 under Subchapter II of Chapter 73 of Title 10 of the United States Code or pursuant to any
 1134 preceding or subsequent federal law which provides survivor benefits for spouses of
 1135 members of the armed forces who were killed or who died as a result of any war or armed
 1136 conflict.

1137 (d) An unremarried surviving spouse filing for the exemption under this section shall be
 1138 required to file with the governing authority of the City of DeKalb, or the designee thereof,
 1139 information relative to marital status and other such information which the governing
 1140 authority of the City of DeKalb, or the designee thereof, deems necessary to determine
 1141 eligibility for the exemption. Each unremarried surviving spouse shall file for the exemption
 1142 only once with the governing authority of the City of DeKalb, or the designee thereof. Once
 1143 filed, the exemption shall automatically be renewed from year to year, except that the
 1144 governing authority of the City of DeKalb, or the designee thereof, may require annually that
 1145 the holder of an exemption substantiate his or her continuing eligibility for the exemption.
 1146 It shall be the duty of any person granted the homestead exemption under this section to
 1147 notify the governing authority of the City of DeKalb, or the designee thereof, in the event
 1148 that person for any reason becomes ineligible for such exemption.

1149 (e) The exemption granted by this section shall be in addition to any other exemption from
 1150 ad valorem taxation for municipal purposes.

1151 (f) The exemptions granted by this section shall apply to all tax years beginning on or after
 1152 January 1, 2013.

1153 **SECTION 5.12.**

1154 Homestead exemption; one mill equivalent.

1155 (a) As used in this section, the term:

1156 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal
 1157 purposes levied by, for, or on behalf of the City of DeKalb, including, but not limited to,
 1158 any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

1159 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of
 1160 the O.C.G.A., as amended.

1161 (b) Each resident of the City of DeKalb is granted an exemption on that person's homestead
 1162 from City of DeKalb ad valorem taxes for municipal purposes in an amount that provides the
 1163 dollar equivalent of a one mill reduction of the millage rate applicable to the homestead
 1164 property with respect to ad valorem taxes for municipal purposes for the taxable year. The
 1165 value of that property in excess of such exempted amount shall remain subject to taxation.

1166 (c) A person shall not receive the homestead exemption granted by subsection (b) of this
 1167 section unless the person or person's agent files an application with the governing authority
 1168 of the City of DeKalb, or the designee thereof, giving such information relative to receiving
 1169 such exemption as will enable the governing authority of the City of DeKalb, or the designee
 1170 thereof, to make a determination regarding the initial and continuing eligibility of such owner
 1171 for such exemption. The governing authority of the City of DeKalb, or the designee thereof,
 1172 shall provide application forms for this purpose.

1173 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of
 1174 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year
 1175 as long as the owner occupies the residence as a homestead. After a person has filed the
 1176 proper application, as provided in subsection (c) of this section, it shall not be necessary to
 1177 make application thereafter for any year and the exemption shall continue to be allowed to
 1178 such person. It shall be the duty of any person granted the homestead exemption under
 1179 subsection (b) of this section to notify the governing authority of the City of DeKalb, or the
 1180 designee thereof, in the event that person for any reason becomes ineligible for that
 1181 exemption.

1182 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state
 1183 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent
 1184 school district ad valorem taxes for educational purposes. The homestead exemption granted
 1185 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead
 1186 exemption applicable to municipal ad valorem taxes for municipal purposes.

1187 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years
 1188 beginning on or after January 1, 2013.

1189 ARTICLE VI

1190 GENERAL PROVISIONS.

1191 SECTION 6.01.

1192 DeKalb County Special Services Tax District.

1193 For the taxable years beginning on or after January 1, 2013, the adjusted ad valorem tax
 1194 millage rate and amount for service charges or fees for district services for the DeKalb
 1195 special services tax district shall be zero percent. This section is enacted pursuant to the

1196 authority granted to the General Assembly under Section 1 of that local constitutional
 1197 amendment providing that certain municipalities in DeKalb County shall constitute special
 1198 services tax districts, Resolution Act. No. 168; House Resolution No. 715-1916; Ga. L. 1978,
 1199 p. 2468, to control the subject matter of such local constitutional amendment. Municipal
 1200 services provided by DeKalb County for the City of DeKalb will be established through
 1201 intergovernmental agreements or established as otherwise authorized by statute.

1202 **SECTION 6.02.**

1203 Referendum and initial election.

1204 (a) Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election
 1205 superintendent of DeKalb County shall call a special election for the purpose of submitting
 1206 this Act to the qualified voters of the proposed City of DeKalb for approval or rejection. The
 1207 superintendent shall set the date of such election for the date of the general primary in 2012.
 1208 The superintendent shall issue the call for such election at least 30 days prior to the date
 1209 thereof. The superintendent shall cause the date and purpose of the election to be published
 1210 once a week for two weeks immediately preceding the date thereof in the official organ of
 1211 DeKalb County. The ballot shall have written or printed thereon the words:

1212 "() YES Shall the Act incorporating the City of DeKalb in the unincorporated portion
 1213 () NO of DeKalb County according to the charter contained in the Act be approved?"

1214 All persons desiring to vote for approval of the Act shall vote "Yes," and those persons
 1215 desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes
 1216 cast on such question are for approval of the Act, it shall become of full force and effect as
 1217 provided in this charter, otherwise it shall be void and of no force and effect.

1218 The initial expense of such election shall be borne by DeKalb County. Within two years
 1219 after the elections if the incorporation is approved, the City of DeKalb shall reimburse
 1220 DeKalb County for the actual cost of printing and personnel services for such election and
 1221 for the initial election of the mayor and councilmembers pursuant to Section 2.02 of this
 1222 charter. It shall be the duty of the superintendent to hold and conduct such election. It shall
 1223 be his or her further duty to certify the result thereof to the Secretary of State.

1224 (b) For the purposes of the referendum election provided for in subsection (a) of this section
 1225 and for the purposes of the special election of the City of DeKalb to be held on the third
 1226 Tuesday in September, 2012, the qualified electors of the City of DeKalb shall be those
 1227 qualified electors of unincorporated DeKalb County residing within the corporate limits of
 1228 the proposed City of DeKalb. At subsequent municipal elections, the qualified electors of
 1229 the City of DeKalb shall be determined pursuant to the authority of Chapter 2 of Title 21 of
 1230 the O.C.G.A. known as the "Georgia Election Code."

1231 (c) Only for the purposes of holding and conducting the referendum election provided for
 1232 by subsection (a) of this section and holding and conducting the special election of the City
 1233 of DeKalb to be held on the third Tuesday in September, 2012, the election superintendent
 1234 of DeKalb County is vested with the powers and duties of the election superintendent of the
 1235 City of DeKalb and the powers and duties of the governing authority of the City of DeKalb.

1236 **SECTION 6.03.**

1237 Effective dates and transition.

1238 (a) The initial mayor and councilmembers shall take the oath of office the next business day
 1239 after certification of the election of such officers, and by action of any four members of the
 1240 governing authority may, prior to December 1, 2012, meet and take actions binding on the
 1241 city.

1242 (b) A period of time will be needed for an orderly transition of various government functions
 1243 from DeKalb County to the City of DeKalb. Accordingly, there shall be a two-year transition
 1244 period as allowed by law beginning at 12:01 A.M. on December 1, 2012.

1245 (c) During such transition period, DeKalb County shall continue to provide within the
 1246 territorial limits of the city all government services and functions which DeKalb County
 1247 provided in 2012 and at the same actual direct cost and level of service, except to the extent
 1248 otherwise provided in this section; provided, however, that upon at least 30 days' prior
 1249 written notice to the governing authority of DeKalb County by the governing authority of
 1250 City of DeKalb, responsibility for any such service or function shall be transferred to the City
 1251 of DeKalb. The governing authority of the City of DeKalb shall determine the date of
 1252 commencement of collection of taxes, fees, assessments, fines and forfeitures, and other
 1253 moneys within the territorial limits of the city and the date upon which the City of DeKalb
 1254 is considered removed from the special tax district.

1255 (d) During the transition period, the governing authority of the City of DeKalb may
 1256 generally exercise any power granted by this charter or general law, except to the extent that
 1257 a power is specifically and integrally related to the provision of a governmental service,
 1258 function, or responsibility not yet provided or carried out by the city.

1259 (e) During the transition period, all ordinances of DeKalb County shall remain applicable
 1260 within the territorial limits of the city unless otherwise amended, repealed, or replaced by the
 1261 City of DeKalb. Any transfer of jurisdiction to the City of DeKalb during or at the end of
 1262 the transition period shall not in and of itself abate any judicial proceeding pending in
 1263 DeKalb County or the pending prosecution of any violation of any ordinance of DeKalb
 1264 County.

1265 (f) During the transition period, the governing authority of the City of DeKalb may at any
 1266 time, without the necessity of any agreement by DeKalb County, commence to exercise its

1267 planning and zoning powers; provided, however, that the city shall give the county notice of
1268 the date on which the city will assume the exercise of such powers. Upon the governing
1269 authority of the City of DeKalb commencing to exercise its planning and zoning powers, the
1270 Municipal Court of the City of DeKalb shall immediately have jurisdiction to enforce the
1271 planning and zoning ordinances of the city. The provisions of this subsection shall control
1272 over any conflicting provisions of any other subsection of this section.

1273 (g) Effective upon the termination of the transition period, subsections (b) through (f) of this
1274 section shall cease to apply except for the last sentence of subsection (e) which shall remain
1275 effective. Effective upon the termination of the transition period, the City of DeKalb shall
1276 be a full functioning municipal corporation and subject to all general laws of this state.

1277 **SECTION 6.04.**

1278 Directory nature of dates.

1279 It is the intention of the General Assembly that this Act be construed as directory rather than
1280 mandatory with respect to any date prescribed in this Act. If it is necessary to delay any
1281 action called for in this Act for providential cause, delay in securing approval under the
1282 federal Voting Rights Act, or any other reason, it is the intention of the General Assembly
1283 that the action be delayed rather than abandoned. Any delay in performing any action under
1284 this Act, whether for cause or otherwise, shall not operate to frustrate the overall intent of this
1285 Act. Without limiting the generality of the foregoing it is specifically provided that if it is
1286 not possible to hold the referendum election provided for in Section 6.02 of this Act on the
1287 date specified in that section, then such referendum shall be held as soon thereafter as is
1288 reasonably practicable but not later than 45 days after securing approval under the federal
1289 Voting Rights Act. If the referendum election provided for in Section 6.02 of this Act is
1290 conducted on or before August 7, 2012, the special election for the initial members of the
1291 governing authority shall be conducted on the date specified in Section 2.02 of this Act. If
1292 the referendum election provided for under Section 6.02 of this Act is conducted after
1293 August 7, 2012, then the special election for the initial members of the governing authority
1294 shall be held as soon thereafter as is reasonably practicable, and the commencement of the
1295 initial terms of office shall be delayed accordingly. If the first election provided for in
1296 Section 2.02 of this Act occurs after the Tuesday following the first Monday in November,
1297 2012, the city council shall be authorized to delay the dates otherwise specified in Section
1298 6.03 of this Act.

SECTION 6.05.

1299

1300

Severability.

1301 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
1302 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
1303 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full
1304 force and effect, as if the section, subsection, sentence, clause, or phrase so declared or
1305 adjudged invalid or unconstitutional were not originally a part hereof. The General
1306 Assembly hereby declares that it would have passed the remaining parts of this Act if it had
1307 known that such part or parts hereof would be declared or adjudged invalid or
1308 unconstitutional.

SECTION 6.06.

1309

1310

Effective date.

1311 This Act shall become effective upon its approval by the Governor or upon its becoming law
1312 without such approval.

SECTION 6.07.

1313

1314

Repealer.

1315 All laws and parts of laws in conflict with this Act are repealed.

1316 CERTIFICATE AS TO MINIMUM STANDARDS
1317 FOR INCORPORATION OF A NEW MUNICIPAL CORPORATION

1318 I, Representative Billy Mitchell, Georgia State Representative from the 88th District and the
1319 author of this bill introduced at the 2012 session of the General Assembly of Georgia, which
1320 grants an original municipal charter to the City of DeKalb, do hereby certify that this bill is
1321 in compliance with the minimum standards required by Chapter 31 of Title 36 of the
1322 O.C.G.A. in that the area embraced within the original incorporation in this bill is in all
1323 respects in compliance with the minimum standards required by Chapter 31 of Title 36 of the
1324 O.C.G.A.

1325 This certificate is executed to conform to the requirements of Code Section 36-31-5 of the
1326 O.C.G.A.

1327 So certified this ____ day of _____, 2012.

1328 _____
1329 Honorable Billy Mitchell
1330 Representative, 88th District
1331 Georgia General Assembly