

The Senate State and Local Governmental Operations Committee offered the following substitute to HB 636:

A BILL TO BE ENTITLED  
AN ACT

1 To incorporate the City of Brookhaven in DeKalb County; to provide for a charter for the  
2 City of Brookhaven; to provide for incorporation, boundaries, and powers of the city; to  
3 provide for general powers and limitations on powers; to provide for a governing authority  
4 of such city and the powers, duties, authority, election, terms, method of filling vacancies,  
5 compensation, expenses, qualifications, prohibitions, and districts relative to members of  
6 such governing authority; to provide for inquiries and investigations; to provide for  
7 organization and procedures; to provide for ordinances; to provide for codes; to provide for  
8 a Governor's Commission; to provide for the office of mayor and certain duties and powers  
9 relative to the office of mayor; to provide for administrative responsibilities; to provide for  
10 boards, commissions, and authorities; to provide for a city manager, a city attorney, a city  
11 clerk, a city accountant, and other personnel; to provide for a municipal court and the judge  
12 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 DeKalb County to the City of  
19 Brookhaven; to provide for severability; to provide an effective date; to repeal conflicting  
20 laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I  
CREATION, INCORPORATION, POWERS

**SECTION 1.01.**

Incorporation.

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

**SECTION 1.02.**

Corporate boundaries.

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

**SECTION 1.03.**

Powers and construction.

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

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

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

(2) Appropriations and expenditures. To make appropriations for the support of the government of the city; to authorize the expenditure of money for any purposes authorized by this charter and for any purpose for which a municipality is authorized by the laws of the State of Georgia; and to provide for the payment of expenses of the city;

(3) Building regulation. To regulate and to license the erection and construction of buildings and all other structures; to adopt building, housing, plumbing, electrical, gas, and heating and air conditioning codes; and to regulate all housing and building trades to the extent permitted by general law;

(4) Business regulation and taxation. To levy and to provide for the collection of regulatory fees and taxes on privileges, occupations, trades, and professions as authorized by Title 48 of the O.C.G.A. or other such applicable laws as are or may hereafter be enacted; to permit and regulate the same; to provide for the manner and method of payment of such regulatory fees and taxes; and to revoke such permits after due process for failure to pay any city taxes or fees;

(5) Condemnation.

(A) To condemn property inside the corporate limits of the city for present or future use and for any public purpose deemed necessary by the city council utilizing procedures enumerated in Title 22 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted;

(B) The municipality shall have the right to condemn and cause to be remediated or removed any building, structure, or existing condition within its corporate limits that is dangerous to life, limb, or property, by reasons of decay, dilapidation, or unsanitary condition. Nothing in this subparagraph shall be construed to relieve the municipality of any duty to give owners or interested persons reasonable notice and opportunity to remedy the situation. Nothing in this subparagraph shall be construed as relieving the municipality of liability to any interested person for damages to person or property taken or destroyed in furtherance of this subparagraph. This subparagraph shall not be construed as authorizing the doing of any act or thing contrary to the Constitution of this state and the policy of the general laws of this state. The municipality shall have authority to adopt reasonable ordinances and resolutions for the purpose of carrying out this subparagraph;

(6) Contracts. To enter into contracts and agreements with other governmental entities and with private persons, firms, and corporations;

(7) Emergencies. To establish procedures for determining and proclaiming that an emergency situation exists within or without the city, and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health, or well-being of the citizens of the city;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(22) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose of public utilities, including but not limited to a system of waterworks, sewers and drains, sewage disposal, storm-water management, gasworks, electricity generating plants, cable

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) The millage rate imposed for ad valorem taxes on real property shall not exceed 3.35 unless a higher limit is recommended by resolution of the city council and approved by a majority of the qualified electors of the City of Brookhaven voting on the issue, provided that the amount of millage associated with general obligation bonds shall not count as part of the 3.35 limit since such millage is already subject to approval by the electors of the city in a separate referendum; and

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

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

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

(40) Tourism, conventions, and trade shows. To provide for the structure, operation, or management of the Brookhaven Convention and Visitors Bureau created pursuant to Section 1.05 of this charter and to authorize the City of Brookhaven to contract with private sector nonprofit organizations or other governmental agencies to promote tourism, conventions, and trade shows;

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

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

#### **SECTION 1.04.**

##### **Exercise of powers.**

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

#### **SECTION 1.05.**

##### **Tourism, conventions, and trade shows.**

The Brookhaven Convention and Visitors Bureau is hereby created.

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

City council creation; number; election.

(a) The legislative authority of the government of the City of Brookhaven, except as otherwise specifically provided in this charter, shall be vested in a city council of which the mayor shall be a voting member to the extent provided in subsection (a) of Section 2.10 of this charter.

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

(2)(A) For the purposes of electing members of the city council, the City of Brookhaven shall be divided into four council districts, designated Council Districts 1 through 4. Such four districts shall be and correspond to those four numbered districts described in and attached to and made a part of this Act as Appendix "B" and further identified as 'Plan: BHccR2-2012 Plan Type: Local Administrator: H080 User: Gina'.

(B)(i) For the purposes of such plan:

(I) The term 'VTD' shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2010 for the State of Georgia. The separate numeric designations in a district description which are underneath a VTD heading shall mean and describe individual Blocks within a VTD as provided in the report of the Bureau of the Census for the United States decennial census of 2010 for the State of Georgia; and  
(II) Except as otherwise provided in the description of any district, whenever the description of any district refers to a named city, it shall mean the geographical boundaries of that city as shown on the census maps for the United States decennial census of 2010 for the State of Georgia.

(ii) Any part of the City of Brookhaven which is not included in any district described in subparagraph (A) of this paragraph shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2010 for the State of Georgia.

(iii) Any part of the City of Brookhaven which is described in subparagraph (A) of this paragraph as being included in a particular district shall nevertheless not be included within such district if such part is not contiguous to such district. Such noncontiguous part shall instead be included within that district contiguous to such

part which contains the least population according to the United States decennial census of 2010 for the State of Georgia.

(iv) Any part of the City of Brookhaven which is described in subparagraph (A) of this paragraph as being included in a particular district which, on the effective date of this Act is within the corporate boundaries of another municipality, shall not be included within such district.

(v) Any part of the City of Brookhaven which is described in subparagraph (A) of this paragraph as being included in a particular district which is not within the corporate boundaries of the City of Brookhaven shall not be included within such district.

(C) Following each decennial census, the city council shall revise such districts pursuant to Code Section 36-35-4.1 of the O.C.G.A. to maintain a proper population balance among such districts.

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

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

(d) In order to assure staggered elections of the councilmembers, in the first election of the city council the terms for the candidates elected for Council Districts 2 and 4 shall expire upon the administration of the oath of office to their successors elected in the regular elections held in November, 2013, as provided in subsection (b) of Section 2.02 of this charter. The terms for the candidates elected for Council Districts 1 and 3 shall expire upon the administration of the oath of office to their successors elected in the regular elections held in November, 2015, as provided in subsection (b) of Section 2.02 of this charter. Thereafter, a successor to each councilmember shall be elected at the November election immediately preceding the end of such councilmember's term of office and the term of each

councilmember shall expire upon the administration of the oath of office to his or her successor.

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

## **SECTION 2.02.**

Mayor and councilmembers; terms and qualifications for office.

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

(b) An election shall be held on the Tuesday after the first Monday in November, 2012, to elect the first mayor and city council. At such election, the first mayor and council shall be elected to serve for the initial terms of office specified in subsections (d) and (e) of Section 2.01 of this charter. Thereafter, the time for holding regular municipal elections shall

be on the Tuesday next following the first Monday in November of each odd-numbered year beginning in 2013.

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

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

(e) No person who has been convicted of a felony or a crime of moral turpitude shall be eligible for election or to serve as mayor or councilmember of the City of Brookhaven.

(f) No person who was a member of the General Assembly at the time of the enactment of this charter shall be eligible for election or to serve as mayor or councilmember of the City of Brookhaven during the first four years of the city's existence.

### **SECTION 2.03.**

Vacancy; filling of vacancies; suspensions.

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

(1) Violating the provisions of this charter;

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

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

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

(c) The office of a councilmember shall become vacant upon the incumbent's death, resignation, forfeiture of office, or removal from office in any manner authorized by this charter or the general laws of the State of Georgia. A vacancy in the office of a councilmember shall be filled for the remainder of the unexpired term by a special election if such vacancy occurs 12 months or more prior to the expiration of the term of that office.

If such vacancy occurs within 12 months of the expiration of the term of that office, the mayor shall appoint a successor for the remainder of the term subject to the approval of the city council or those members remaining. This provision shall also apply to a temporary vacancy created by the suspension from office of a councilmember.

#### **SECTION 2.04.**

##### **Nonpartisan elections.**

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

#### **SECTION 2.05.**

##### **Election votes.**

The candidate for mayor who receives a majority vote of the qualified electors of the city at large voting at the elections of the city shall be elected. The candidates for Council Districts 1, 2, 3, and 4 who receive a majority vote of the qualified electors of Council Districts 1, 2, 3, and 4, respectively, voting at the elections of the city shall be elected.

#### **SECTION 2.06.**

##### **Applicability of general laws; qualifying; other provisions.**

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

#### **SECTION 2.07.**

##### **Compensation and expenses.**

The annual salary of the mayor shall be \$16,000.00 and the annual salary for each councilmember shall be \$12,000.00. Such salaries shall be paid from municipal funds in monthly installments. The mayor shall be provided an annual expense allowance of \$5,000.00 and each councilmember shall be provided an annual expense allowance of

\$3,000.00 for the reimbursement of expenses actually and necessarily incurred by the mayor and councilmembers in carrying out their duties as elected officials of the city.

**SECTION 2.08.**

Inquiries and investigations.

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

**SECTION 2.09.**

Meetings, oath of office, and mayor pro tempore.

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

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

(b) Following the induction of the mayor and councilmembers, the city council, by a majority vote of the councilmembers, shall elect a councilmember to be mayor pro tempore, who shall serve for a term of two years and until a successor is elected and qualified. The

number of successive terms an individual may hold a position as mayor pro tempore shall be unlimited.

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

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

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

## **SECTION 2.10.**

### **Quorum; voting.**

(a) Three councilmembers shall constitute a quorum and shall be authorized to transact business for the city council. Voting on the adoption of ordinances shall be taken by voice vote and the yeas and nays shall be recorded in the minutes, but on the request of any member, there shall be a roll-call vote. In order for any ordinance, resolution, motion, or other action of the city council to be adopted, the measure must receive at least three affirmative votes. No member of the city council shall abstain from voting on any matter properly brought before the city council for official action except when such councilmember has a conflict of interest which is disclosed in writing prior to or at the meeting and made a part of the minutes. Any member of the city council present and eligible to vote on a matter and refusing to do so for any reason, other than a properly disclosed and recorded conflict of interest, shall be deemed to have acquiesced or concurred with the members of the

majority who did vote on the question involved. The mayor shall vote only in the case of a tie or in the case where his or her vote will provide the number of votes necessary for approval of a matter.

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

- (1) Adopting or amending an administrative code or establishing, altering or abolishing a department, office not specified in this charter, or agency;
- (2) Providing a fine or other penalty;
- (3) Levying taxes;
- (4) Granting, renewing, or extending a franchise;
- (5) Regulating a rate for a public utility;
- (6) Authorizing the borrowing of money;
- (7) Conveying, leasing, or encumbering city land;
- (8) Regulating land use and development; and
- (9) Amending or repealing an ordinance already adopted.

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

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

## **SECTION 2.11.**

### **General power and authority of the city council.**

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

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

**SECTION 2.12.**

## Administrative and service departments.

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

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

**SECTION 2.13.**

## Prohibitions.

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

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

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

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

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

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

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

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

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

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

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

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

## **SECTION 2.14.**

### **Boards, commissions, and authorities.**

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

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

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

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

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

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

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

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

## **SECTION 2.15.**

Ordinance form; procedures.

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

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

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

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

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

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

## **SECTION 2.16.**

Submission of ordinances to the city clerk.

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

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

## **ARTICLE III**

### **EXECUTIVE BRANCH**

## **SECTION 3.01.**

Powers and duties of the mayor.

(a) The mayor shall:

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

(2) Set the agenda for meetings of the city council; provided, however, that additional items shall be added to the agenda upon the written request of any two or more members of the city council;

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

### **SECTION 3.02.**

#### **City manager; appointment and qualification.**

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

### **SECTION 3.03.**

#### **City manager; chief administrative officer.**

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

**SECTION 3.04.**

City manager; powers and duties enumerated.

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

- (1) See that all laws and ordinances are enforced;
- (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;
- (3) Remove employees appointed and employed under paragraph (2) of this section without the consent of the city council and without assigning any reason therefor;
- (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;
- (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;
- (6) Recommend to the city council, after prior review and comment by the mayor, for adoption of such measures as the city manager may deem necessary or expedient;
- (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;
- (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;
- (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;
- (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

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

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

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

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

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

### **SECTION 3.05.**

#### **City council interference with administration.**

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

### **SECTION 3.06.**

#### **City manager; removal.**

(a) The mayor and city council may suspend the city manager from office by a vote at least three members. The mayor and city council, by a vote of at least three members, may remove the city manager from office at a subsequent meeting of the city council held on a different day following the suspension of the city manager. The mayor shall be permitted to vote on the suspension and removal of the city manager notwithstanding the provisions of subsection (a) of Section 2.10 of this charter. This provision may be supplemented, but not supplanted, by an employment contract of the city manager which provides for additional procedures for suspension or removal from office.

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

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

### **SECTION 3.07.**

#### **Acting city manager.**

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

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

### **SECTION 3.08.**

#### **City attorney.**

The mayor shall appoint the city attorney together with such assistant city attorneys as may be deemed appropriate subject to confirmation by the city council and shall provide for the payment of such attorney for services rendered to the city. The rates or salary paid to any city attorney or assistant city attorney shall be approved in advance by the city council. The city attorney shall be responsible for representing and defending the city in all litigation in which the city is a party; may be the prosecuting officer in the municipal court; shall attend the meetings of the city council as directed; shall advise the city council, mayor, other officers, and employees of the city concerning legal aspects of the city's affairs; and shall perform such other duties as may be required by virtue of his or her position as city attorney. The city attorney shall review all contracts of the city but shall not have the power to bind the city. No person who was a member of the General Assembly at the time of the enactment of this charter shall be eligible to serve as city attorney during the first four years of the city's existence.

**SECTION 3.09.**

City clerk.

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

**SECTION 3.10.**

City accountant.

The mayor may appoint a city accountant subject to confirmation by the city council to perform the duties of an accountant. The city accountant shall also act as tax collector to collect all taxes, licenses, fees, and other moneys belonging to the city subject to the provisions of this charter and the ordinances of the city; and such tax collector shall diligently comply with and enforce all general laws of Georgia relating to the collection, sale, or foreclosure of taxes by municipalities.

**SECTION 3.11.**

City internal auditor.

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

**SECTION 3.12.**

Consolidation of functions.

The city manager, with the approval of the city council, may consolidate the positions of city clerk and city accountant, or any other positions, or may assign the functions of any one or more of such positions to the holder or holders of any other positions. The city manager may

also, with the approval of the city council, perform all or any part of the functions of any of the positions or offices in lieu of the appointment of other persons to perform the same.

### **SECTION 3.13.**

Position classification and pay plans; employment at will.

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

## **ARTICLE IV**

### **MUNICIPAL COURT**

#### **SECTION 4.01.**

Creation.

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

**SECTION 4.02.****Judge.**

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

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

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

(d) The judge, or judge pro tempore, shall serve for a term of two years but may be removed from the position by a two-thirds' vote of the entire membership of the mayor and city council, notwithstanding the provisions of subsection (a) of Section 2.10 of this charter, or shall be removed upon action taken by the Judicial Qualifications Commission for:

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

**SECTION 4.03.****Convening.**

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

**SECTION 4.04.**

## Jurisdiction; powers.

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

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

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

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

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

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

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

**SECTION 4.05.**

## Certiorari.

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

921 **SECTION 4.06.**

922 Rules for court.

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

926 **ARTICLE V**

927 **FINANCE AND FISCAL**

928 **SECTION 5.01.**

929 Fiscal year.

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

934 **SECTION 5.02.**

935 Preparation of budgets.

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

939 **SECTION 5.03.**

940 Submission of operating budget to city council.

941 (a) On or before a date fixed by the city council, but no later than 45 days prior to the end  
942 of the current fiscal year, the city manager shall, after input, review, and comment by the  
943 mayor, submit to the city council a proposed operating budget and capital budget for the  
944 ensuing fiscal year. The budget shall be accompanied by a message from the mayor and city  
945 manager containing a statement of the general fiscal policies of the city, the important  
946 features of the budget, explanations of major changes recommended for the next fiscal year,  
947 a general summary of the budget, and such other comments and information as they may  
948 deem pertinent. The operating budget, capital budget, budget message, and all supporting  
949 documents shall be filed in the office of the city manager and shall be open to public  
950 inspection.

(b) In each year of the city's operation, the city manager and mayor shall present to the city council a budget which is balanced in projected spending and revenues.

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

(d) All unencumbered balances of appropriations in the current operating budget at the end of the fiscal year shall lapse into the unappropriated surplus or reserves of the fund or funds from which such appropriations were made. When a supplemental appropriation is certified by the mayor to exist pursuant to subsection (c) of Section 3.01 of this charter, these appropriations can be spent during the current fiscal year following passage of a supplemental appropriation ordinance.

#### **SECTION 5.04.**

##### **Action by city council on budget.**

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

(b) The city council shall adopt a budget on or before the last day of the current fiscal year. If the city council fails to adopt the budget by the prescribed deadline, the operating budget and capital budget proposed by the mayor and city manager shall be adopted without further action by the city council.

#### **SECTION 5.05.**

##### **Procurement and property management.**

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

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

983 (2) It is made or authorized by the city council and such approval is entered in the city  
984 council journal of proceedings.

985 **SECTION 5.06.**

986 Purchasing.

987 The city council shall by ordinance prescribe procedures for a system of centralized  
988 purchasing for the city in accordance with recognized public purchasing standards and with  
989 the requirements of state law.

990 **SECTION 5.07.**

991 Audits.

992 (a) There shall be an annual independent audit of all city accounts, funds, and financial  
993 transactions by a certified public accountant selected by the city council. The audit shall be  
994 conducted according to generally accepted accounting principles, general audit standards,  
995 and state law. Copies of all audit reports shall be available at printing cost to the public.

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

998 **SECTION 5.08.**

999 Homestead exemption; freeze.

1000 (a) As used in this section, the term:

1001 (1) "Ad valorem taxes for municipal purposes" means all municipal ad valorem taxes for  
1002 municipal purposes levied by, for, or on behalf of the City of Brookhaven, including, but  
1003 not limited to, ad valorem taxes to pay interest on and to retire municipal bonded  
1004 indebtedness.

1005 (2) "Base year" means the taxable year immediately preceding the taxable year in which  
1006 the exemption under this section is first granted to the most recent owner of such  
1007 homestead.

1008 (3) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of  
1009 the O.C.G.A., as amended, with the additional qualification that it shall include not more  
1010 than five contiguous acres of homestead property.

1011 (b) Each resident of the City of Brookhaven is granted an exemption on that person's  
1012 homestead from City of Brookhaven ad valorem taxes for municipal purposes in an amount  
1013 equal to the amount by which the current year assessed value of that homestead exceeds the

base year assessed value of that homestead. This exemption shall not apply to taxes assessed on improvements to the homestead or additional land that is added to the homestead after January 1 of the base year. If any real property is added to or removed from the homestead, the base year assessed value shall be adjusted to reflect such addition or removal, and the exemption shall be recalculated accordingly. The value of that property in excess of such exempted amount shall remain subject to taxation.

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

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

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

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

## **SECTION 5.09.**

### **Homestead exemption; senior citizens; disabled.**

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

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

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

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

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

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

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

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

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

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

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

#### **SECTION 5.10.**

##### **Homestead exemption; general.**

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

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

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

(b) Each resident of the City of Brookhaven is granted an exemption on that person's homestead from City of Brookhaven ad valorem taxes for municipal purposes in the amount of \$20,000.00 of the assessed value of that homestead. The value of that property in excess of such exempted amount shall remain subject to taxation.

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

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

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

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

#### **SECTION 5.11.**

##### **Homestead exemption; surviving spouses.**

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

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

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

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

(b) Any person who is a resident of the City of Brookhaven and who is an unremarried surviving spouse of a member of the armed forces of the United States who has been killed in or has died as a result of any war or armed conflict in which the armed forces of the United States engaged, whether under United States command or otherwise, shall be granted a homestead exemption from all City of Brookhaven ad valorem taxation for municipal purposes in the amount of the greater of \$32,500.00 or the maximum amount which may be granted to a disabled veteran under Section 2102 of Title 38 of the United States Code, as amended. The exemption shall be on the homestead which the unremarried surviving spouse

owns and actually occupies as a residence and homestead. In the event such surviving spouse remarries, such person shall cease to be qualified to continue the exemption under this section effective December 31 of the taxable year in which such person remarries. The value of all property in excess of such exemption granted to such unremarried surviving spouse shall remain subject to taxation.

(c) In order to qualify for the exemption provided for in this section, the unremarried surviving spouse shall furnish to the governing authority of the City of Brookhaven, or the designee thereof, documents from the United States Secretary of Defense evidencing that such unremarried surviving spouse receives spousal benefits as a result of the death of such person's spouse who as a member of the armed forces of the United States was killed or died as a result of a war or armed conflict while on active duty or while performing authorized travel to or from active duty during such war or armed conflict in which the armed forces of the United States engaged, whether under United States command or otherwise, pursuant to the Survivor Benefit Plan under Subchapter II of Chapter 73 of Title 10 of the United States Code or pursuant to any preceding or subsequent federal law which provides survivor benefits for spouses of members of the armed forces who were killed or who died as a result of any war or armed conflict.

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

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

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

## ARTICLE VI

### GENERAL PROVISIONS.

#### **SECTION 6.01.**

##### DeKalb County Special Services Tax District.

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

#### **SECTION 6.02.**

##### Referendum and initial election.

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

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

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

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

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

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

### **SECTION 6.03.**

#### **Effective dates and transition.**

(a) The initial mayor and councilmembers shall take the oath of office the next business day after certification of the election of such officers, and by action of any three members of the governing authority may, prior to December 17, 2012, meet and take actions binding on the city.

(b) A period of time will be needed for an orderly transition of various government functions from DeKalb County to the City of Brookhaven. Accordingly there shall be a two-year transition period as allowed by law beginning at 12:01 A.M. on December 17, 2012.

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

shall determine the date of commencement of collection of taxes, fees, assessments, fines, and forfeitures, and other moneys within the territorial limits of the city and the date upon which the City of Brookhaven is considered removed from the special tax district.

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

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

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

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

#### **SECTION 6.04.**

##### **Directory nature of dates.**

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

date specified in that section, then such referendum shall be held as soon thereafter as is reasonably practicable but not later than 45 days after securing approval under the federal Voting Rights Act. If the referendum election provided for in Section 6.02 of this Act is conducted on or before August 21, 2012, the special election for the initial members of the governing authority shall be conducted on the date specified in Section 2.02 of this Act. If the referendum election provided for under Section 6.02 of this Act is conducted after August 21, 2012, then the special election for the initial members of the governing authority shall be held as soon thereafter as is reasonably practicable, and the commencement of the initial terms of office shall be delayed accordingly. If the first election provided for in Section 2.02 of this Act occurs after the Tuesday following the first Monday in November, 2012, the city council shall be authorized to delay the dates otherwise specified in Section 6.03 of this Act.

#### **SECTION 6.05.**

##### **Governor's Commission.**

After the approval of this Act in the referendum as provided in Section 6.02, the Governor's Commission on Brookhaven shall be appointed pursuant to subsection (g) of Code Section 36-31-8 of the O.C.G.A. All five interim representatives on such commission shall be residents of the area encompassed by the City of Brookhaven and shall meet any qualifications contained in subsection (g) of Code Section 36-31-8 of the O.C.G.A. The five interim representatives shall include at least one representative who resides in each council district. The Governor shall appoint one of the interim representatives as the chairperson who shall preside at meetings of the commission. All meetings of the commission shall be subject to Chapter 14 of Title 50 of the O.C.G.A. regarding open and public meetings, as it now exists or is subsequently amended. After the qualifying period ends for the initial members of the governing authority, but prior to the election for such initial members, the commission shall conduct a training seminar for all of the qualified candidates for mayor and city council on the duties, responsibilities, obligations, and laws regarding service on a municipal governing authority. For the presentation of such seminar, the commission is authorized to enlist the assistance of the Georgia Municipal Association, the Carl Vinson Institute of Government of the University of Georgia, and similar organizations. The commission shall, in addition to conducting such seminar and performing its other duties prescribed in subsection (g) of Code Section 36-31-8 of the O.C.G.A., prepare and present a written report to the new mayor and city council on the following matters:

- (1) Backgrounds and qualifications of possible candidates for the positions of city manager, city attorney, city clerk, and city accountant;

(2) A proposed plan for cost-effectively privatizing the delivery of as many city services as practicable based upon the best practices of other municipalities; and

(3) Possible locations and pricing for leased city office facilities.

Such report shall be made public via the Internet on the day immediately following the general election date of the mayor and city council and shall be delivered to the newly elected mayor and city council. The commission shall stand dissolved when the members of the first city council take office.

#### **SECTION 6.06.**

Severability.

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

#### **SECTION 6.07.**

Effective date.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval. The boundaries of the proposed City of Brookhaven shall become effective upon the effective date of this Act for the purposes of annexation of territory by other municipalities and no portion of the territory within the proposed City of Brookhaven shall be subject to annexation as of the effective date of this Act. If the referendum provided for in Section 6.02 fails, then such boundaries shall cease to exist and shall be subject to annexation by other municipalities.

#### **SECTION 6.08.**

Repealer.

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

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APPENDIX A  
LEGAL DESCRIPTION  
CORPORATE LIMITS  
CITY OF BROOKHAVEN, DEKALB COUNTY, GEORGIA

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Commence at a point on the land lot line common to Land Lot 6 of the 17th District of Fulton County, Georgia and Land Lot 154 of the 18th District of DeKalb County, Georgia, where said land lot line intersects with the northerly right-of-way line of the Northeast Expressway (inclusive of access roads) (a/k/a Interstate I-85); thence running north along the land lot lines dividing Fulton and DeKalb Counties following the easterly boundaries of the City of Atlanta and the City of Sandy Springs, respectively, (including any deviations from said land lot line to the extent that boundary of the City of Atlanta crosses into DeKalb County, Georgia as of the date of this description) to a point on the land lot line common to Land Lot 17 of the 17th District of Fulton County, Georgia, and Land Lot 329 of the 18th District of DeKalb County where said land lot line intersects with the southerly boundary of the City of Dunwoody, Georgia, and the southerly right-of-way line of the Perimeter Highway (a/k/a I-285); thence running northeasterly and easterly along said southerly right-of-way line following the southerly boundary of the City of Dunwoody, Georgia, to a point in Land Lot 345 of the 18th District of DeKalb County, Georgia, where said southerly right-of-way line and the southerly border of the City of Dunwoody, Georgia intersect with the westerly right-of-way line of Chamblee Dunwoody Road and the boundary of the City of Chamblee, Georgia; thence following said westerly right-of-way line running southerly following the westerly boundary of the City of Chamblee, Georgia to a point in Land Lot 308 of the 18th District of DeKalb County, Georgia, where said westerly right-of-way line intersects with the northerly right-of-way line of Harts Mill Road; thence running southwesterly, northwesterly and southwesterly along said right-of-way line following the boundary of the City of Chamblee, Georgia, to the point where said right-of-way line intersects with the land lot line common to Land Lots 306 and 307 in the 18th District of DeKalb County, Georgia; thence leaving said right-of-way line, following said land lot line south along the westerly boundary of the City of Chamblee, Georgia, to a point where the land lot line common to Land Lots 277 and 278 of the 18th District of DeKalb County, Georgia, intersects with the northerly right-of-way line of Peachtree Road (f/k/a Peachtree Industrial Boulevard); thence leaving said land lot line running southwesterly along said northerly right-of-way line of Peachtree Road for a distance of 1250 feet, more or less to a point following the boundary of the City of Chamblee, Georgia, as described in Article 1, Section 2.6 of the Charter of the City of Chamblee, Georgia (1967 Annexation); thence leaving said northerly right-of-way line following the boundary of the City of Chamblee,

Georgia, following the boundary being described in Article 1, Section 2.8 of the Charter of the City of Chamblee, Georgia (1978 Annexation), easterly to a point where said boundary intersects with the land lot line common to Land Lots 277 and 278 of the 18th District of DeKalb County; thence continuing along the boundary of the City of Chamblee, Georgia, southerly and easterly to the point where said boundary intersects with the right-of-way of 8th Street; thence running easterly along the right-of-way of 8th Street, following the boundary of the City of Chamblee, to the intersection of said right-of-way and the City of Chamblee boundary with the westerly right-of-way line of Clairmont Road; thence running due east across said right-of-way to the easterly right-of-way line of Clairmont Road; thence running southerly following the easterly right-of-way line of Clairmont Road to a point at the intersection of said easterly right-of-way line and the northerly right-of-way line of the Northeast Expressway (inclusive of access roads) (a/k/a Interstate I-85) in Land Lot 196 of the 18th District of DeKalb County, Georgia; thence following said northerly right-of-way line southwest to the POINT OF BEGINNING.

All right-of-way and boundary descriptions shall be as of the date of the passage of this legislation.

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APPENDIX B

LEGAL DESCRIPTION

CITY COUNCIL DISTRICTS

CITY OF BROOKHAVEN, DEKALB COUNTY, GEORGIA

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Plan: BHccR2-2012

Plan Type: Local

Administrator: H080

User: Gina

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District 001

DeKalb County

VTD: 089AG - ASHFORD DUNWOOD

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021209:

3010

VTD: 089AH - ASHFORD PARKSIDE

VTD: 089MU - MONTGOMERY ELEM

VTD: 089NA - NANCY CREEK ELEM

021202:

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District 002

DeKalb County

VTD: 089AB - ASHFORD PARK ELEMENTARY

VTD: 089BE - BRIARWOOD

021405:

3013

021413:

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VTD: 089BI - BROOKHAVEN

021411:

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| 1444 | VTD: 089SE - SILVER LAKE                                    |               |
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| 1446 | 1004 2020 3006 4018                                         |               |
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| 1448 | 3011 3016                                                   |               |
| 1449 | VTD: 089SF - SKYLAND                                        |               |
| 1450 | 021405:                                                     |               |
| 1451 | 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 |               |
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| 1458 | District 003                                                |               |
| 1459 | DeKalb County                                               |               |
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| 1461 | 021102:                                                     |               |
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| 1463 | VTD: 089BE - BRIARWOOD                                      |               |
| 1464 | 021405:                                                     |               |
| 1465 | 2012 2021 3012 3014 3015 3016 3017 3018 3019 3020           |               |
| 1466 | 021416:                                                     |               |
| 1467 | 1000 1001 1002 1003 1004 1005 1006                          |               |
| 1468 | VTD: 089BI - BROOKHAVEN                                     |               |
| 1469 | 021405:                                                     |               |
| 1470 | 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 |               |
| 1471 | 2013 2014 2015 2016 2017 2018 2019 2020 2022 2023 3003 3004 |               |
| 1472 | 3005 3006 3007 3008 3009 3010 3011                          |               |
| 1473 | VTD: 089CO - CROSS KEYS HIGH                                |               |
| 1474 | 021415:                                                     |               |
| 1475 | 1000 1001 1002 1003 1004 1005 1006 1007 1008 2000 2001 2002 |               |
| 1476 | 2003 2004 2005 2006 2008 2009 2010                          |               |
| 1477 | VTD: 089SE - SILVER LAKE                                    |               |
| 1478 | 021102:                                                     |               |
| 1479 | 1000 1001 1002 1003 1005 1006 2000 2001 2002 2003 2004 2005 |               |

|      |                              |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
|------|------------------------------|---------------|------|------|------|------|------|------|------|------|------|------|--|--|--|--|--|--|--|--|
|      | 12                           | LC 28 6273ERS |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1480 | 2006                         | 2007          | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |  |  |  |  |  |  |  |  |
| 1481 | 2018                         | 2019          | 3001 | 3002 | 3003 | 3004 | 3005 | 4000 | 4001 | 4002 | 4003 | 4004 |  |  |  |  |  |  |  |  |
| 1482 | 4005                         | 4006          | 4007 | 4008 | 4009 | 4010 | 4011 | 4012 | 4013 | 4014 | 4015 | 4016 |  |  |  |  |  |  |  |  |
| 1483 | 4017                         | 4019          | 4020 | 4021 |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1484 | District 004                 |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1485 | DeKalb County                |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1486 | VTD: 089BE - BRIARWOOD       |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1487 | 021416:                      |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1488 | 2000                         | 2001          | 2002 | 2003 |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1489 | VTD: 089CO - CROSS KEYS HIGH |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1490 | 021415:                      |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1491 | 2007                         |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1492 | 021416:                      |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1493 | 2004                         | 2005          |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1494 | 021417:                      |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1495 | 3000                         | 3001          | 3002 | 3003 | 3004 |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1496 | VTD: 089MJ - MONTCLAIR ELEM  |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1497 | 021414:                      |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1498 | 1000                         | 1001          | 1002 | 1003 | 1004 | 1005 | 1006 | 2000 | 2001 | 2002 | 2003 | 2004 |  |  |  |  |  |  |  |  |
| 1499 | 2005                         | 2006          | 2007 | 2008 | 2009 |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1500 | 021417:                      |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1501 | 2000                         | 2001          | 2002 | 2003 | 2004 | 2005 | 2009 | 2017 |      |      |      |      |  |  |  |  |  |  |  |  |
| 1502 | 021603:                      |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1503 | 2000                         | 2007          |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |
| 1504 | VTD: 089WJ - WOODWARD ELEM   |               |      |      |      |      |      |      |      |      |      |      |  |  |  |  |  |  |  |  |

1505 APPENDIX C

1506 CERTIFICATE AS TO MINIMUM STANDARDS  
1507 FOR INCORPORATION OF A NEW MUNICIPAL CORPORATION

1508 I, Representative Mike Jacobs, Georgia State Representative from the 80th District and the  
1509 author of this bill introduced at the 2011 session of the General Assembly of Georgia, which  
1510 grants an original municipal charter to the City of Brookhaven, do hereby certify that this bill  
1511 is in compliance with the minimum standards required by Chapter 31 of Title 36 of the  
1512 O.C.G.A. in that the area embraced within the original incorporation in this bill is in all  
1513 respects in compliance with the minimum standards required by Chapter 31 of Title 36 of the  
1514 O.C.G.A.  
1515 This certificate is executed to conform to the requirements of Code Section 36-31-5 of the  
1516 O.C.G.A.

1517 So certified this \_\_\_\_ day of \_\_\_\_\_, 2012.

1518 \_\_\_\_\_  
1519 Honorable Mike Jacobs  
1520 Representative, 80th District  
1521 Georgia House of Representatives