

House Bill 1249 (AS PASSED HOUSE AND SENATE)

By: Representative Reece of the 11th

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the Town of Lyerly; to provide for incorporation, boundaries,
2 and powers of the town; to provide for a governing authority of such town and the powers,
3 duties, authority, election, terms, vacancies, compensation, expenses, qualifications,
4 prohibitions, conflicts of interest, and suspension and removal from office relative to
5 members of such governing authority; to provide for inquiries and investigations; to provide
6 for oaths, organization, meetings, quorum, voting, rules, and procedures; to provide for
7 ordinances and codes; to provide for a mayor and certain duties, powers, and other matters
8 relative thereto; to provide for administrative affairs and responsibilities; to provide for
9 boards, commissions, and authorities; to provide for a city attorney, a city clerk, and other
10 personnel and matters relating thereto; to provide for rules and regulations; to provide for a
11 municipal court and the judge or judges thereof and other matters relative to those judges;
12 to provide for the court's jurisdiction, powers, practices, and procedures; to provide for the
13 right of certiorari; to provide for elections; to provide for taxation, licenses, and fees; to
14 provide for franchises, service charges, and assessments; to provide for bonded and other
15 indebtedness; to provide for auditing, accounting, budgeting, and appropriations; to provide
16 for town contracts and purchasing; to provide for the conveyance of property and interests
17 therein; to provide for bonds for officials; to provide for prior ordinances and rules, pending
18 matters, and existing personnel; to provide for penalties; to provide for definitions and
19 construction; to provide for other matters relative to the foregoing; to repeal a specific Act;
20 to provide for effective dates; to repeal conflicting laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I
INCORPORATION

SECTION 1.10.

Incorporation.

26 This Act shall constitute the whole charter of the Town of Lyerly repealing and replacing the
27 charter provided by an Act of the General Assembly approved April 5, 1976 (Ga. L. 1976,
28 p. 4051), as amended. The Town of Lyerly, Georgia, in the County of Chattooga and the
29 inhabitants thereof are hereby constituted and declared a body politic and corporate under
30 the same name and style of the "Town of Lyerly, Georgia," and by that name shall have
31 perpetual succession, may sue and be sued and plead and be impleaded in all the courts of
32 law and equity and in all actions whatsoever and may have and use a common seal and
33 change it at pleasure.

SECTION 1.11.

Corporate boundaries.

36 (a) The boundaries of the Town of Lyerly shall be those existing on the effective date of the
37 adoption of this charter with such alterations as may be made from time to time in the
38 manner provided by law. The current boundaries of the Town of Lyerly at all times shall be
39 shown on a map to be retained permanently in the office of the town clerk and to be
40 designated: "Map of Lyerly, Georgia." Alterations in these boundaries shall be indicated by
41 appropriate entries upon or additions to such map. Such entries or additions shall be made
42 by and under the direction of the mayor. Photographic, typed, or other copies of such map
43 certified by the mayor shall be admitted in evidence in all courts and shall have the same
44 force and effect as the original map.

45 (b) The town council may provide for the redrawing of any such map by ordinance to reflect
46 lawful changes in the corporate boundaries. A redrawn map shall supersede for all purposes
47 the earlier map or maps which it is designated to replace.

SECTION 1.12.

Specific powers and construction.

50 (a) The government of the Town of Lyerly shall have all powers possible for a town to have
51 under the present or future Constitution and laws of this state as fully and completely as
52 though they were specifically enumerated in this charter. This town shall have all the powers
53 of self-government not otherwise prohibited by this charter or by general law.

54 (b) The powers of this town shall be construed liberally in favor of the town. The specific
55 mention or failure to mention particular powers shall not be construed as limiting in any way
56 the powers of this town.

57 **SECTION 1.13.**

58 Examples of powers.

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

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

68 (c) Building regulation. To regulate and to license the erection and construction of buildings
69 and all other structures; to adopt building, housing, plumbing, fire safety, electrical, gas, and
70 heating and air conditioning codes; and to regulate all housing and building trades.

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

77 (e) Condemnation. To condemn property inside or outside the corporate limits of the town,
78 for present or future use and for any corporate purpose deemed necessary by the governing
79 authority, utilizing procedures enumerated in Title 22 of the O.C.G.A., or such other
80 applicable laws as are or may hereafter be enacted.

81 (f) Contracts. To enter into contracts and agreements with other governmental entities and
82 with private persons, firms, and corporations.

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

87 (h) Environmental protection. To protect and preserve the natural resources, environment,
88 and vital areas of the town, the region, and the state through the preservation and

89 improvement of air quality, the restoration and maintenance of water resources, the control
90 of erosion and sedimentation, the management of storm water and establishment of a
91 storm-water utility, the management of solid and hazardous waste, and other necessary
92 actions for the protection of the environment.

93 (i) Fire regulations. To fix and establish fire limits and from time to time to extend, enlarge,
94 or restrict the same; to prescribe fire safety regulations consistent with general law, relating
95 to both fire prevention and detection and to fire fighting; and to prescribe penalties and
96 punishment for violations thereof.

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

102 (k) General health, safety, and welfare. To define, regulate, and prohibit any act, practice,
103 conduct, or use of property which is detrimental to health, sanitation, cleanliness, welfare,
104 and safety of the inhabitants of the town, and to provide for the enforcement of such
105 standards.

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

109 (m) Health and sanitation. To prescribe standards of health and sanitation and to provide
110 for the enforcement of such standards.

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

117 (o) Motor vehicles. To regulate the operation of motor vehicles and exercise control over
118 all traffic, including parking upon or across the streets, roads, alleys, and walkways of the
119 town.

120 (p) Municipal agencies and delegation of power. To create, alter, or abolish departments,
121 boards, offices, commissions, and agencies of the town, and to confer upon such agencies the
122 necessary and appropriate authority for carrying out all the powers conferred upon or
123 delegated to the same.

- 124 (q) Municipal debts. To appropriate and borrow money for the payment of debts of the town
125 and to issue bonds for the purpose of raising revenue to carry out any project, program, or
126 venture authorized by this charter or the laws of the State of Georgia.
- 127 (r) Municipal property ownership. To acquire, dispose of, lease, and hold in trust or
128 otherwise, any real, personal, or mixed property, in fee simple or lesser interest, inside or
129 outside the property limits of the town.
- 130 (s) Municipal property protection. To provide for the preservation and protection of
131 property and equipment of the town, and the administration and use of same by the public;
132 and to prescribe penalties and punishment for violations thereof.
- 133 (t) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose of
134 public utilities, including, but not limited to a system of waterworks, sewers and drains,
135 sewage disposal, storm-water management, gas works, electric light plants, cable television
136 and other telecommunications, transportation facilities, public airports, and any other public
137 utility; and to fix taxes, charges, rates, fares, fees, assessments, regulations, and penalties,
138 and to provide for the withdrawal of service for refusal or failure to pay the same.
- 139 (u) Nuisance. To define a nuisance and provide for its abatement whether on public or
140 private property.
- 141 (v) Penalties. To provide penalties for violation of any ordinances adopted pursuant to the
142 authority of this charter and the laws of the State of Georgia.
- 143 (w) Planning and zoning. To provide comprehensive town planning for development by
144 zoning; and to provide subdivision regulation and the like as the town council deems
145 necessary and reasonable to ensure a safe, healthy, and aesthetically pleasing community.
- 146 (x) Police and fire protection. To exercise the power of arrest through duly appointed police
147 officers, and to establish, operate, or contract for a police and a firefighting agency.
- 148 (y) Public hazards: Removal. To provide for the destruction and removal of any building
149 or other structure which is or may become dangerous or detrimental to the public.
- 150 (z) Public improvements. To provide for the acquisition, construction, building, operation,
151 and maintenance of public ways, parks and playgrounds, recreational facilities, cemeteries,
152 markets and market houses, public buildings, libraries, public housing, airports, hospitals,
153 terminals, docks, parking facilities, or charitable, cultural, educational, recreational,
154 conservation, sport, curative, corrective, detentional, penal, and medical institutions,
155 agencies, and facilities; and to provide any other public improvements, inside or outside the
156 corporate limits of the town; to regulate the use of public improvements; and for such
157 purposes, property may be acquired by condemnation under Title 22 of the O.C.G.A., or such
158 other applicable laws as are or may hereafter be enacted.
- 159 (aa) Public peace. To provide for the prevention and punishment of loitering, disorderly
160 conduct, drunkenness, riots, and public disturbances.

- 161 (bb) Public transportation. To organize and operate such public transportation systems as
162 are deemed beneficial.
- 163 (cc) Public utilities and services. To grant franchises or make contracts for, or impose taxes
164 on public utilities and public service companies; and to prescribe the rates, fares, regulations,
165 and standards and conditions of service applicable to the service to be provided by the
166 franchise grantee or contractor, insofar as not in conflict with valid regulations of the Public
167 Service Commission.
- 168 (dd) Regulation of roadside areas. To prohibit or regulate and control the erection, removal,
169 and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any and all other
170 structures or obstructions upon or adjacent to the rights-of-way of streets and roads or within
171 view thereof, within or abutting the corporate limits of the town; and to prescribe penalties
172 and punishment for violation of such ordinances.
- 173 (ee) Retirement. To provide and maintain a retirement plan and other employee benefit
174 plans and programs for officers and employees of the town.
- 175 (ff) Roadways. To lay out, open, extend, widen, narrow, establish, or change the grade of,
176 abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise improve,
177 maintain, repair, clean, prevent erosion of, and light the roads, alleys, and walkways within
178 the corporate limits of the town; and to grant franchises and rights-of-way throughout the
179 streets and roads, and over the bridges and viaducts for the use of public utilities; and to
180 require real estate owners to repair and maintain in a safe condition the sidewalks adjoining
181 their lots or lands, and to impose penalties for failure to do so.
- 182 (gg) Sewer fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring,
183 constructing, equipping, operating, maintaining, and extending of a sewage disposal plant
184 and sewerage system, and to levy on those to whom sewers and sewerage systems are made
185 available a sewer service fee, charge, or sewer tax for the availability or use of the sewers;
186 to provide for the manner and method of collecting such service charges and for enforcing
187 payment of the same; and to charge, impose, and collect a sewer connection fee or fees to
188 those connected with the system.
- 189 (hh) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish,
190 and refuse, and to regulate the collection and disposal of garbage, rubbish, and refuse by
191 others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper,
192 and other recyclable materials, and to provide for the sale of such items.
- 193 (ii) Special areas of public regulation. To regulate or prohibit junk dealers and the
194 manufacture and sale of intoxicating liquors; to regulate the transportation, storage, and use
195 of combustible, explosive, and inflammable materials, the use of lighting and heating
196 equipment, and any other business or situation which may be dangerous to persons or
197 property; to regulate and control the conduct of peddlers and itinerant traders, theatrical

198 performances, exhibitions, and shows of any kind, by taxation or otherwise; to license and
 199 tax professional fortunetelling, palmistry, and massage parlors; and to restrict adult
 200 bookstores to certain areas.

201 (jj) Special assessments. To levy and provide for the collection of special assessments to
 202 cover the costs for any public improvements.

203 (kk) Taxes: Ad valorem and other. To levy and provide for the assessment, valuation,
 204 revaluation, and collection of taxes on all property subject to taxation; to levy and collect
 205 such other taxes as may be allowed now or in the future by law.

206 (ll) Taxicabs. To regulate and license vehicles operated for hire in the town; to limit the
 207 number of such vehicles; to require the operators thereof to be licensed; to require public
 208 liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to
 209 regulate the parking of such vehicles.

210 (mm) Urban redevelopment. To organize and operate an urban redevelopment program.

211 (nn) Other powers. To exercise and enjoy all other powers, functions, rights, privileges, and
 212 immunities necessary or desirable to promote or protect the safety, health, peace, security,
 213 good order, comfort, convenience, or general welfare of the town and its inhabitants; and to
 214 exercise all implied powers necessary or desirable to carry into execution all powers granted
 215 in this charter as fully and completely as if such powers were fully stated herein; and to
 216 exercise all powers now or in the future authorized to be exercised by other municipal
 217 governments under other laws of the State of Georgia; and no listing of particular powers in
 218 this charter shall be held to be exclusive of others, nor restrictive of general words and
 219 phrases granting powers, but shall be held to be in addition to such powers unless expressly
 220 prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

221 **SECTION 1.14.**

222 **Exercise of powers.**

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

227 ARTICLE II
 228 LEGISLATIVE BRANCH
 229 CHAPTER 1
 230 Governing body.

231 **SECTION 2.10.**
 232 Creation; number; election.

233 The legislative authority of the government of the Town of Lyerly, except as otherwise
 234 specifically provided in this charter, shall be vested in a town council to be composed of four
 235 members, who shall be elected in the manner provided by Article V of this charter. The town
 236 council established shall in all respects be a successor to and continuation of the governing
 237 authority under prior law. The councilmembers in office on the effective date of this Act
 238 shall continue in office until the expiration of the terms for which they were elected.

239 **SECTION 2.11.**
 240 Qualifications and terms of office.

241 (a) Qualifications. A person shall be eligible to serve as councilmember if such person shall
 242 have been a resident of the town for a period of one year immediately prior to the date of the
 243 election to such office; shall continue to reside therein during such person's period of service;
 244 and shall be registered and qualified to vote in municipal elections of the Town of Lyerly;
 245 and shall meet the qualifications required of members of the Georgia House of
 246 Representatives, as are now or may in the future be prescribed by the Georgia Constitution.
 247 Employees of the Town of Lyerly are ineligible to qualify for the election to public offices
 248 as outlined in subsection (i) of Section 2.14. Minimum age requirements for
 249 councilmembers shall be set at 21 years of age.

250 (b) Terms. The members of the town council shall serve for terms of four years and until
 251 their respective successors are elected and qualified. To hold the office of councilmember,
 252 a person shall continue to possess the qualifications prescribed in subsection (a) of this
 253 section and shall not hold any other elective public office, or hold any position of
 254 employment with the State of Georgia, or any county, city, or town thereof.

255 **SECTION 2.12.**

256 Vacancy; forfeiture of office; filling of vacancies.

257 (a) Vacancies. The office of mayor or councilmember shall become vacant upon the
 258 incumbent's death, resignation, forfeiture of office, or occurrence of any relevant event
 259 specified by the Constitution of the State of Georgia, Title 45 of the O.C.G.A., or such other
 260 applicable laws as are or may hereafter be enacted.

261 (b) Forfeiture of office. The mayor or any councilmember shall forfeit his or her office if
 262 such person:

263 (1) Lacks at any time during such person's term of office any qualifications of the office
 264 as prescribed by this charter or the laws of the State of Georgia;

265 (2) Willfully and knowingly violates any express prohibition of this charter; or

266 (3) Is convicted of a crime involving moral turpitude.

267 (c) Filling of Vacancies. A vacancy in the office of mayor or councilmember shall be filled
 268 for the remainder of the unexpired term, if any, by appointment by the town council or those
 269 members remaining if fewer than 12 months remain in the unexpired term. If such vacancy
 270 occurs 12 months or more prior to the expiration of the term of that office, it shall be filled
 271 by a special election as provided for in Section 5.14 of this charter and in accordance with
 272 Titles 21 and 45 of the O.C.G.A. or other such laws as are or may hereafter be enacted.

273 (d) Subsection (c) of this section shall also apply to a temporary vacancy created by the
 274 suspension from office of any councilmember.

275 **SECTION 2.13.**

276 Compensation and expenses.

277 The mayor and councilmembers shall be entitled to receive their actual and necessary
 278 expenses incurred in the performance of their duties of office and may fix their compensation
 279 as authorized by general law; provided, however, that no increase in the salary of the mayor
 280 or councilmembers shall become effective until the date of commencement of the terms of
 281 mayor and councilmembers elected at the next regular election.

282 **SECTION 2.14.**

283 Prohibitions.

284 (a) Elected and appointed officers of the town are trustees and servants of the residents of
 285 the town and shall act in a fiduciary capacity for the benefit of such residents.

286 (b) Holding other office. Except as authorized by law, no member of the town council or
287 mayor shall hold any other elective town office or town employment during the term for
288 which such person was elected.

289 (c) Voting when personally interested. Neither the mayor nor any other member of the
290 council shall vote upon, sign, or veto any ordinance, resolution, contract, or other matter in
291 which such person is personally or financially interested.

292 (d) Conflict of interest. No elected official, appointed officer, or employee of the town or
293 any agency or political entity to which this charter applies shall knowingly:

294 (1) Engage in any business or transaction, or have a financial or other personal interest,
295 direct or indirect, which is incompatible with the proper discharge of that person's official
296 duties or which would tend to impair the independence of the official's judgment or action
297 in the performance of those official duties;

298 (2) Engage in or accept private employment, or render services for private interests
299 when such employment or service is incompatible with the proper discharge of that
300 person's official duties or would tend to impair the independence of the official's
301 judgment or action in the performance of those official duties;

302 (3) Disclose confidential information, including information obtained at meetings which
303 are closed pursuant to Chapter 14 of Title 50 of the O.C.G.A., concerning the property,
304 government, or affairs of the governmental body by which the official is engaged without
305 proper legal authorization; or use such information to advance the financial or other
306 private interest of the official or others;

307 (4) Accept any valuable gift, in the form of service, loan, thing, or promise, from any
308 person, firm, or corporation which to the official's knowledge is interested, directly or
309 indirectly, in any manner whatsoever, in business dealings with the governmental body
310 by which the official is engaged; provided, however, that an elected official who is a
311 candidate for public office may accept campaign contributions and services in connection
312 with any such campaign;

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

315 (6) Vote or otherwise participate in the negotiation or in the making of any contract with
316 any business or entity in which the official has a financial interest.

317 (e) Disclosure. Any elected official, appointed officer, or employee who shall have any
318 financial interest, directly or indirectly, in any contract or matter pending before or within
319 any department of the town shall disclose such interest to the town council. The mayor or
320 any councilmember who has a financial interest in any matter pending before the town
321 council shall disclose such interest and such disclosure shall be entered on the records of the
322 town council, and that official shall disqualify himself or herself from participating in any

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

327 (f) Use of public property. No elected official, appointed officer, or employee of the town
 328 or any agency or entity to which this charter applies shall use property owned by such
 329 governmental entity for personal benefit or profit but shall use such property only in their
 330 capacity as an officer or employee of the town.

331 (g) Contracts voidable and rescindable. Any violation of this section which occurs with the
 332 knowledge, express or implied, of a party to a contract or sale shall render such contract or
 333 sale voidable at the option of the town council.

334 (h) Ineligibility of elected official. Except where authorized by law, neither the mayor nor
 335 any councilmember shall hold any other elective or appointive office in the town or
 336 otherwise be employed by such government or any agency thereof during the term for which
 337 that official was elected.

338 (i) Political activities of certain officers and employees. No appointive officer or employee
 339 of the town shall continue in such employment upon qualifying as a candidate for nomination
 340 or election to any public office. No employee of the town shall continue in such employment
 341 upon qualifying for or election to any public office in this town or any other public office
 342 which is inconsistent, incompatible, or in conflict with the duties of the town employee.
 343 Such determination shall be made by the town council either immediately upon election or
 344 at any time such conflict may arise.

345 (j) Penalties for violation. Any town officer or employee who knowingly conceals such
 346 financial interest or knowingly violates any of the requirements of this section shall be guilty
 347 of malfeasance in office or position and shall be deemed to have forfeited that person's office
 348 or position. Any officer or employee of the town who shall forfeit an office or position as
 349 provided in this subsection shall be ineligible for appointment or election to or employment
 350 in a position in the town government for a period of three years.

351 **SECTION 2.15.**

352 **Inquiries and investigations.**

353 Following the adoption of an authorizing resolution, the town council may make inquiries
 354 and investigations into the affairs of the town and the conduct of any department, office, or
 355 agency thereof, and for this purpose may subpoena witnesses, administer oaths, take
 356 testimony, and require the production of evidence. Any person who fails or refuses to obey

357 a lawful order issued in the exercise of these powers by the town council shall be punished
358 as provided by ordinance.

359 **SECTION 2.16.**

360 General power and authority of the town council.

361 (a) Except as otherwise provided by law or by this charter, the town council shall be vested
362 with all the powers of government of the Town of Lyerly as provided by Article I of this
363 charter.

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

371 **SECTION 2.17.**

372 Eminent domain.

373 The town council is hereby empowered to acquire, construct, operate, and maintain public
374 ways, parks, public grounds, cemeteries, markets, market houses, public buildings, libraries,
375 sewers, drains, sewage treatment, waterworks, electrical systems, gas systems, airports,
376 hospitals, and charitable, educational, recreational, sport, curative, corrective, detentional,
377 penal, and medical institutions, agencies, and facilities, and any other public improvements
378 inside or outside the town, and to regulate the use thereof, and for such purposes, property
379 may be condemned under procedures established under general law applicable now or as
380 provided in the future.

381 **CHAPTER 2**

382 Organizations and procedures.

383 **SECTION 2.18.**

384 Organization.

385 (a) At the first regular meeting in each year, the oath of office shall be administered to the
386 mayor and councilmembers beginning a new term of office as follows:

387 "I do solemnly swear that I will faithfully perform the duties of (mayor)(councilmember)
 388 of this town and that I will support and defend the charter thereof as well as the
 389 Constitution and laws of the State of Georgia and of the United States of America. I am
 390 not the holder of any unaccounted for public money due this state or any political
 391 subdivision or authority thereof. I am not the holder of any office of trust under the
 392 government of the United States, any other state, or any foreign state which I by the laws
 393 of the State of Georgia am prohibited from holding. I am otherwise qualified to hold such
 394 office according to the Constitution and laws of Georgia. I have been a resident of the
 395 Town of Lyerly for the time required by the Constitution and laws of this state and by the
 396 municipal charter. I will perform the duties of my office in the best interest of the Town
 397 of Lyerly to the best of my ability without fear, favor, affection, reward, or expectation
 398 thereof."

399 **SECTION 2.19.**

400 Regular and special meetings.

- 401 (a) The town council shall hold regular meetings at such times and places as shall be
 402 prescribed by ordinance. The town council may recess any regular meeting and continue
 403 such meeting on any weekday or hour it may fix, and may transact any business at such
 404 continued meeting that may be transacted at any regular meeting.
- 405 (b) Special meetings of the town council may be held on call of the mayor or three members
 406 of the town council. Notice of such special meetings shall be served on all other members
 407 personally, or by telephone personally, at least 48 hours in advance of the meeting. Such
 408 notice to councilmembers shall not be required if the mayor and all councilmembers are
 409 present when the special meeting is called. Such notice of any special meeting may be
 410 waived by a councilmember in writing before or after such a meeting, and attendance at the
 411 meeting shall also constitute a waiver of notice on any business transacted in such
 412 councilmember's presence. Only the business stated in the call may be transacted at the
 413 special meeting.
- 414 (c) All meetings of the town council shall be public to the extent required by law and notice
 415 to the public of special meetings shall be made as fully as is reasonably possible as provided
 416 by Code Section 50-14-1 of the O.C.G.A., or other such applicable laws as are or may
 417 hereafter be enacted.

418 **SECTION 2.20.**

419 Rules of procedure.

420 (a) The town council shall adopt its rules of procedure and order of business consistent with
421 the provisions of this charter and shall provide for keeping a journal of its proceedings, which
422 shall be a public record.

423 (b) All committees and committee chairs and officers of the town council shall be appointed
424 by the mayor and shall serve at the pleasure of the mayor. The mayor shall have the power
425 to appoint new members to any committee at any time.

426 **SECTION 2.21.**

427 Quorum; voting.

428 Three councilmembers shall constitute a quorum and shall be authorized to transact business
429 of the town council. Voting on the adoption of ordinances shall be by voice vote and the
430 vote shall be recorded in the journal, but any member of the town council shall have the right
431 to request a roll call vote and such vote shall be recorded in the journal. Except as otherwise
432 provided in this charter, the affirmative vote of three councilmembers shall be required for
433 the adoption of any ordinance, resolution, or motion.

434 (b) No member of the town council shall abstain from voting on any matter properly brought
435 before the town council for official action except when such councilmember has a conflict
436 of interest which is disclosed in writing prior to or at the meeting and made a part of the
437 minutes. Any member of the town council present and eligible to vote on a matter and
438 refusing to do so for any reason other than a properly disclosed and recorded conflict of
439 interest shall be deemed to have acquiesced or concurred with the members of the majority
440 who did vote on the question involved.

441 **SECTION 2.22.**

442 Ordinances.

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

447 (b) An ordinance may be introduced by any councilmember and be read at a regular or
448 special meeting of the town council. Ordinances shall be considered and adopted or rejected
449 by the town council in accordance with the rules which it shall establish; provided, however,

450 that an ordinance shall not be adopted the same day it is introduced, except for emergency
 451 ordinances provided in Section 2.24 of this charter. Upon introduction of any ordinance, the
 452 clerk shall as soon as possible distribute a copy to the mayor and to each councilmember and
 453 shall file a reasonable number of copies in the office of the clerk and at such other public
 454 places as the town council may designate.

455 **SECTION 2.23.**

456 Action requiring an ordinance.

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

459 **SECTION 2.24.**

460 Emergency ordinances.

461 (a) To meet a public emergency affecting life, health, property, or public peace, the town
 462 council may adopt one or more emergency ordinances, but such ordinances may not levy
 463 taxes; grant, renew, or extend a franchise; regulate the rate charged by any public utility for
 464 its services; or authorize the borrowing of money except as provided by law. An emergency
 465 ordinance shall be introduced in the form and manner prescribed for ordinances generally
 466 except that it shall be plainly designated as an emergency ordinance and shall contain, after
 467 the enacting clause, a declaration stating that an emergency exists and describing it in clear
 468 and specific terms. An emergency ordinance may be adopted with or without amendment
 469 or rejected at the meeting at which it is introduced, but the affirmative vote of at least three
 470 members of the town council shall be required for adoption. It shall become effective upon
 471 adoption or at such later time as it may specify. Every emergency ordinance shall
 472 automatically stand repealed 30 days following the date upon which it was adopted, but this
 473 shall not prevent reenactment of the ordinance in the manner specified in this section if the
 474 emergency still exists. An emergency ordinance may also be repealed by adoption of a
 475 repealing ordinance in the same manner specified in this section for adoption of emergency
 476 ordinances.

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

481

SECTION 2.25.

482

Codes of technical regulations.

483 (a) The town council may adopt any standard code of technical regulations by reference
 484 thereto in an adopting ordinance. The procedure and requirements governing such adopting
 485 ordinance shall be as prescribed for ordinances generally except that:

486 (1) The requirements of subsection (b) of Section 2.22 of this charter for distribution and
 487 filing of copies of the ordinance shall be construed to include copies of any code of
 488 technical regulations, as well as the adopting ordinance; and

489 (2) A copy of each adopted code of technical regulations, as well as the adopting
 490 ordinance, shall be authenticated and recorded by the clerk pursuant to Section 2.26 of
 491 this charter.

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

494

SECTION 2.26.

495

Signing, authenticating, recording, codification, printing.

496 (a) The clerk shall authenticate by his or her signature and record in full in a properly
 497 indexed book kept for the purpose all ordinances adopted by the town council.

498 (b) The town council may provide for the preparation of a general codification of all of the
 499 ordinances of the town having the force and effect of law. The general codification shall be
 500 adopted by the town council by ordinance and shall be published promptly, together with all
 501 amendments thereto and such codes of technical regulations as the town council may specify.
 502 This compilation shall be known and cited officially as "The Code of the Town of Lyerly,
 503 Georgia." Copies of the code shall be furnished to all officers, departments, and agencies of
 504 the town, and made available for purchase by the public at a reasonable price as fixed by the
 505 town council.

506 (c) The town council shall cause each ordinance and each amendment to this charter to be
 507 printed promptly following its adoption, and the printed ordinances and charter amendments
 508 shall be made available for purchase by the public at reasonable prices to be fixed by the
 509 town council. Following publication of the first code under this charter and at all times
 510 thereafter, the ordinances and charter amendments shall be printed in substantially the same
 511 style as the code currently in effect and shall be suitable in form for incorporation therein.
 512 The town council shall make such further arrangements as are deemed desirable with
 513 reproduction and distribution of any current changes in or additions to codes of technical
 514 regulations and other rules and regulations included in the code.

515 **SECTION 2.27.**

516 Town council interference with administration.

517 Except for the purpose of inquiries and investigations under Section 2.15 of this charter, the
 518 town council or its members shall deal with town officers and employees who are subject to
 519 the direction and supervision of the mayor solely through the mayor, and neither the town
 520 council nor its members shall give orders to any such officer or employee, either publicly or
 521 privately.

522 **ARTICLE III**
 523 **EXECUTIVE BRANCH**
 524 **CHAPTER 1**
 525 **Mayor.**

526 **SECTION 3.10.**
 527 **Qualification; election; term.**

528 (a) Qualifications. To qualify for election as mayor, a person shall be at least 25 years of
 529 age; shall have been a resident of the town for at least one year preceding the date of
 530 qualifying for candidacy for mayor; and shall be registered and qualified to vote in municipal
 531 elections of the Town of Lyerly.

532 (b) Election and term. At each regular election, the voters of the town shall elect a mayor
 533 at large for a term of four years. To hold the office of mayor, a person shall continue to
 534 possess the qualifications prescribed in subsection (a) of this section and shall not hold any
 535 other elective public office, or hold any position of employment with the State of Georgia,
 536 or any county, city, or town thereof.

537 **SECTION 3.11.**
 538 **Mayor pro tem.**

539 The councilmember receiving the highest number of votes in the general election for the
 540 office of councilmember shall be appointed by the town council as mayor pro tem. The
 541 mayor pro tem shall act as mayor during the absence or disability of the mayor for any cause.
 542 When acting as mayor, the mayor pro tem shall be clothed with all the rights and privileges
 543 of the mayor and shall perform duties with all the rights and privileges of the mayor and shall
 544 perform the duties of the office of the mayor so long as such absence or disability shall

545 continue. When serving as mayor, the mayor pro tem shall not also vote as a member of the
546 town council.

547 **SECTION 3.12.**

548 Chief executive officer.

549 The mayor shall be the chief executive of the Town of Lyerly and shall possess, have, and
550 exercise all of the executive and administrative powers granted to the town under the
551 Constitution and laws of the State of Georgia, and all the executive and administrative
552 powers contained in this charter.

553 **SECTION 3.13.**

554 Powers and duties.

555 As the chief executive of the Town of Lyerly, the mayor shall:

- 556 (1) Execute and enforce the provisions of this charter, the ordinances of the town, and
557 all other laws;
- 558 (2) Be the head of the town for the purpose of service of process and for ceremonial
559 purposes, and be the official spokesperson for the town and the chief advocate of policy;
- 560 (3) Exercise supervision over the administration of all departments of the town and may
561 delegate all or part of such supervision to the department heads;
- 562 (4) Prepare periodically, but not less than annually, and submit to the town council for
563 approval a comprehensive development policy which shall consider the town's physical,
564 economic, and social aspects and state the goals and objectives of the Town of Lyerly and
565 its citizens and the necessary recommendations, policies, programs, and priorities for
566 obtaining them;
- 567 (5) Submit to the town council the recommended annual budget;
- 568 (6) Approve or veto proposed ordinances and resolutions as provided in this charter;
- 569 (7) Convene special meetings of the town council at his or her discretion;
- 570 (8) Conduct studies and make investigations and reports to the town council concerning
571 the operations of departments, offices, and agencies of the town and require any
572 department, board, commission, or agency under his or her jurisdiction to submit written
573 reports and information;
- 574 (9) Prescribe, require, publish, and implement standards of administrative management
575 and operating practices and procedures to be followed and adhered to by all offices,
576 departments, boards, commissions, authorities, and other agencies of the town subject to

577 his or her supervision or jurisdiction or delegate all or part of such responsibilities to the
578 department head;

579 (10) Advise the town council as to the financial condition, future needs, and general
580 welfare of the town and make such recommendations to the town council concerning the
581 affairs of the town as he or she deems desirable;

582 (11) When authorized by the town council, negotiate deeds, bonds, contracts, and other
583 instruments and documents on behalf of the town and execute same after final approval
584 by the town council;

585 (12) Represent the town in affairs of intergovernmental relations, promote and improve
586 the government of the town, encourage the growth of the town, and promote and develop
587 the prosperity and social well-being of its people;

588 (13) Initiate such administrative reorganization within town government as he or she
589 may deem desirable;

590 (14) Purchase supplies, material, equipment, and personal property of every type and
591 description, and services for the rental, repair, or maintenance of equipment, machinery,
592 and other town owned property; provided, however, that the purchase amount does not
593 exceed amounts prescribed by internal control policies; any award of contract not
594 competitively procured in accordance with the ordinances of the town or not awarded to
595 the lowest bidder or offerer shall be approved by the town council prior to award; and

596 (15) Perform such other duties as may be required by law, this charter, or by ordinance.

597 **SECTION 3.14.**

598 Delegation of powers and duties; prohibition.

599 In no event shall the mayor delegate to the department head or any other appointed officer
600 or employee the power to approve or veto ordinances or resolutions, convene meetings of the
601 town council, serve as acting mayor, remove the town attorney or town clerk, or amend
602 budgets.

603 **SECTION 3.15.**

604 Submission of ordinances to the mayor; veto power.

605 (a) All ordinances adopted by the town council shall be presented promptly by the clerk to
606 the mayor.

607 (b) The mayor, within ten calendar days of receipt of an ordinance, shall return it to the clerk
608 with or without the mayor's approval, or with his or her disapproval. If the ordinance has
609 been approved by the mayor, it shall become law upon its return to the clerk; if the ordinance

610 is neither approved nor disapproved, it shall become law at 12:00 Noon the tenth calendar
 611 day after its adoption; if the ordinance is disapproved, the mayor shall submit to the town
 612 council through the clerk a written statement of the reasons for veto. The clerk shall record
 613 upon the ordinance the date of its delivery to and receipt from the mayor.

614 (c) Ordinances vetoed by the mayor shall be presented by the clerk to the town council at
 615 its next regular meeting and should the town council then or at its next regular meeting adopt
 616 the ordinance by an affirmative vote of three of its members, excluding the mayor, it shall
 617 become law.

618 (d) The mayor may disapprove or reduce any item or items of appropriation in any
 619 ordinance. The approved part or parts of any ordinance making appropriations shall become
 620 law, and the part or parts disapproved shall not become law unless subsequently passed by
 621 the town council over the mayor's veto as provided herein. The reduced part or parts shall
 622 be presented to the town council as though disapproved and shall not become law unless
 623 overridden by the town council as provided in subsection (c) of this section.

624 CHAPTER 2

625 Organization and general provisions.

626 SECTION 3.20.

627 Administrative and service departments.

628 (a) Except as otherwise provided in this charter, the town council, by ordinance, shall
 629 prescribe the functions or duties, and establish, abolish, alter, consolidate, or leave vacant all
 630 nonelective offices, positions of employment, departments, and agencies of the town, as
 631 necessary for the proper administration of the affairs and government of the town.

632 (b) Except as otherwise provided by this charter or by law, the directors of departments and
 633 other appointed officers of the town shall be appointed solely on the basis of their respective
 634 administrative and professional qualifications.

635 (c) All appointive officers and directors of departments shall receive such compensation as
 636 is prescribed by ordinance or resolution.

637 (d) There shall be a director of each department or agency who shall be its principal officer.
 638 Each director shall, subject to the direction and supervision of the mayor, be responsible for
 639 the administration and direction of the affairs and operations of that director's department or
 640 agency.

641 (e) All appointive officers and directors under the supervision of the mayor shall be
 642 nominated by the mayor with confirmation of appointment by the town council. All

643 appointive officers and directors shall be employees at will and subject to removal or
644 suspension at any time by the mayor unless otherwise provided by law or ordinance.

645 **SECTION 3.21.**

646 **Boards, commissions, and authorities.**

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

651 (b) All members of boards, commissions, and authorities of the town shall be nominated by
652 the mayor with confirmation of appointment by the town council for such terms of office and
653 in such manner as shall be provided by ordinance, except where other appointing authority,
654 term of office, or manner of appointment is prescribed by this charter or by law.

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

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

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

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

666 (g) All board, commission, and authority members serve at will and may be removed at any
667 time by a vote of three members of the town council unless otherwise provided by law.

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

676 **SECTION 3.22.**

677 Town attorney.

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

689 **SECTION 3.23.**

690 Town clerk.

691 The mayor shall appoint a town clerk who shall not be a councilmember. The town clerk
692 shall be custodian of the official town seal and town records, maintain town council records
693 required by this charter, and perform such other duties as may be required by the mayor and
694 town council.

695 **SECTION 3.24.**

696 Tax collector.

697 The town council may appoint a tax collector to collect all taxes, licenses, fees, and other
698 moneys belonging to the town subject to the provisions of this charter and the ordinances of
699 the town consistent therewith. The tax collector shall diligently comply with and enforce all
700 general laws of Georgia relating to the collection, sale, or foreclosure of taxes by
701 municipalities.

702 **SECTION 3.25.**

703 Consolidation of functions.

704 The town council may consolidate any two or more of the positions of town clerk and town
705 tax collector, or any other positions, or may assign the functions of any one or more of such
706 positions to the holder or holders of any other positions.

707 **CHAPTER 3**

708 Personnel administration.

709 **SECTION 3.30.**

710 Personnel policies.

711 All employees serve at will and may be removed from office at any time unless otherwise
712 provided by ordinance. The town council shall adopt rules and regulations consistent with
713 the charter concerning personnel policies as may be necessary to provide for adequate and
714 systematic handling of the personnel affairs of the Town of Lyerly.

715 **ARTICLE IV**
716 **JUDICIAL BRANCH**

717 **SECTION 4.10.**

718 Creation; name.

719 There shall be a court to be known as the Municipal Court of the Town of Lyerly.

720 **SECTION 4.11.**

721 Chief judge; associate judge.

722 (a) The municipal court shall be presided over by a chief judge and such part-time, full-time,
723 or standby judges as shall be provided by ordinance.

724 (b) No person shall be qualified or eligible to serve as a judge on the municipal court unless
725 that person shall have attained the age of 21 years, shall be a member of the State Bar of
726 Georgia, and shall possess all qualifications required by law. All judges shall be appointed
727 by the town council and shall serve until a successor is appointed and qualified.

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

729 (d) Judges shall serve at will and may be removed from office at any time by the town
730 council unless otherwise provided by ordinance.

731 (e) Before assuming office, each judge shall take an oath, given by the mayor, that the judge
732 will honestly and faithfully discharge the duties of the office to the best of that person's
733 ability and without fear, favor, or partiality. The oath shall be entered upon the minutes of
734 the town council by the clerk.

735 **SECTION 4.12.**

736 Convening.

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

738 **SECTION 4.13.**

739 Jurisdiction; powers.

740 (a) The municipal court shall have jurisdiction and authority to try and punish violations of
741 this charter, all town ordinances, and such other violations as provided by law.

742 (b) The municipal court shall have authority to punish those in its presence for contempt,
743 provided that such punishment shall not exceed \$200.00 or ten days in jail.

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

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

751 (e) The municipal court shall have authority to establish bail and recognizances to ensure
752 the presence of those charged with violations before such court, and shall have discretionary
753 authority to accept cash or personal or real property as surety for the appearance of persons
754 charged with violations. Whenever any person shall give bail for that person's appearance
755 and shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge
756 presiding at such time, and an execution issued thereon by serving the defendant and the
757 defendant's sureties with a rule nisi, at least two days before a hearing on the rule nisi. In the
758 event that cash or property is accepted in lieu of bond for security for the appearance of a
759 defendant at trial, and if such defendant fails to appear at the time and place fixed for trial,
760 the cash so deposited shall be on order of the judge declared forfeited to the town, or the

761 property so deposited shall have a lien against it for the value forfeited which shall be
762 enforceable in the same manner and to the same extent as a lien for town property taxes.

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

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

769 (h) Each judge of the municipal court shall be authorized to issue warrants for the arrest of
770 persons charged with offenses against any ordinance of the town, and each judge of the
771 municipal court shall have the same authority as a magistrate of the state to issue warrants
772 for offenses against state laws committed within the town.

773 **SECTION 4.14.**

774 Certiorari.

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

779 **SECTION 4.15.**

780 Rules for court.

781 With the approval of the town council, the judge shall have full power and authority to make
782 reasonable rules and regulations necessary and proper to secure the efficient and successful
783 administration of the municipal court; provided, however, that the town council may adopt
784 in part or in toto the rules and regulations applicable to municipal courts. The rules and
785 regulations made or adopted shall be filed with the town clerk, shall be available for public
786 inspection, and, upon request, a copy shall be furnished to all defendants in municipal court
787 proceedings at least 48 hours prior to such proceedings.

788

ARTICLE V

789

ELECTIONS AND REMOVAL

790

SECTION 5.10.

791

Applicability of general laws.

792

All primaries and elections shall be held and conducted in accordance with Chapter 2 of

793

Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

794

SECTION 5.11.

795

Election of the town council and mayor.

796

(a) There shall be a municipal general election biennially in odd-numbered years on the

797

Tuesday next following the first Monday in November.

798

(b) There shall be elected the mayor and two councilmembers at one election and at every

799

other regular election thereafter. The remaining town council seats shall be filled at the

800

election alternating with the first election so that a continuing body is created. Except as

801

otherwise provided in subsection (d) of this section, terms of office shall be for four years

802

and until a successor is elected and qualified.

803

(c) The mayor and councilmembers shall be elected at large. Officers shall be sworn in at

804

the first organizational meeting in January as provided by this charter.

805

(d) At the 2013 municipal general election, two of the town council seats shall be designated

806

for two-year terms of office and two seats shall be designated for four-year terms of office.

807

Successors to the two persons who are elected to the two-year terms of office shall be elected

808

at the 2015 municipal general election. Successors to the two persons who are elected to the

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four-year terms of office shall be elected at the 2017 municipal general election. A successor

810

to the mayor shall be elected at the 2013 municipal general election for a four-year term of

811

office. Thereafter, successors to the mayor and councilmembers shall be elected at the

812

municipal general election immediately preceding the expiration of the term of office for

813

terms of four years and until their respective successors are elected and qualified.

814

SECTION 5.12.

815

Nonpartisan elections.

816

Political parties shall not conduct primaries for town offices and all names of candidates for

817

town offices shall be listed without party designations.

818 **SECTION 5.13.**

819 Qualifying; nomination and election of candidates; absentee ballots.

820 The town council may, by ordinance, prescribe rules and regulations consistent with law
 821 governing qualifying fees, nomination of candidates, absentee ballots, write-in votes,
 822 challenge of votes, purging of registration lists, and such other rules and regulations as may
 823 be necessary for the conduct of elections in the Town of Lyerly. The candidate for mayor
 824 receiving the highest number of votes shall be deemed elected mayor, and the candidates
 825 receiving the highest number of votes for councilmembers shall be deemed elected
 826 councilmembers.

827 **SECTION 5.14.**

828 Vacancies.

829 In the event that the office of mayor shall become vacant for any cause whatsoever, the
 830 mayor pro tem shall act as mayor until the next general election with all the powers and
 831 duties of the mayor. In the event that the office of councilmember shall become vacant for
 832 any cause whatsoever, the town council or those remaining shall order a special election to
 833 fill the balance of the unexpired term of such official; provided, however, that if such
 834 vacancy occurs within 12 months of the expiration of the term, the town council or those
 835 remaining shall appoint a successor for the remainder of the term, so long as the necessary
 836 quorum to approve the appointment remains. The tenure of office of councilmember so
 837 appointed shall continue only until the next general election. In the event that the required
 838 number of councilmembers to constitute a quorum does not remain, the town council or those
 839 members remaining shall order a special election to fill the balance of the unexpired term of
 840 such official or officials. In all other respects, the special election shall be held and
 841 conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election
 842 Code," as now or hereafter amended.

843 **SECTION 5.15.**

844 Other provisions.

845 Except as otherwise provided by this charter, the town council shall, by ordinance, prescribe
 846 such rules and regulations as it deems appropriate to fulfill any options and duties under
 847 Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter
 848 amended.

849

SECTION 5.16.

850

Removal of officers.

851 (a) The mayor, councilmembers, or other appointed officers provided for in this charter shall
 852 be removed from office for any one or more of the causes provided in Title 45 of the
 853 O.C.G.A. or such other applicable laws as are now or may hereafter be enacted.

854 (b) Removal of an officer pursuant to subsection (a) of this section shall be accomplished
 855 by one of the following methods:

856 (1) Following a hearing at which an impartial panel shall render a decision. In the event
 857 an elected officer is sought to be removed by the action of the town council, such officer
 858 shall be entitled to a written notice specifying the ground or grounds for removal and to
 859 a public hearing which shall be held not less than ten days after the service of such
 860 written notice. The town council shall provide by ordinance for the manner in which
 861 such hearings shall be held. Any elected officer sought to be removed from office as
 862 provided in this section shall have the right of appeal from the decision of the town
 863 council to the Superior Court of Chattooga County. Such appeal shall be governed by the
 864 same rules as govern appeals to the superior court from the probate court.

865 (2) By an order of the Superior Court of Chattooga County following a hearing on a
 866 complaint seeking such removal brought by any resident of the Town of Lyerly.

867

ARTICLE VI

868

FINANCE AND FISCAL

869

CHAPTER 1

870

Taxation.

871

SECTION 6.10.

872

Property taxes.

873 The town council may assess, levy, and collect an ad valorem tax on all real and personal
 874 property within the corporate limits of the town that is subject to such taxation by the state
 875 and county. This tax is for the purpose of raising revenues to defray the costs of operating
 876 the town government, of providing governmental services, for the repayment of principal and
 877 interest on general obligations, and for any other public purpose as determined by the town
 878 council in its discretion.

879 **SECTION 6.11.**

880 Millage rate; due dates; payment methods.

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

885 **SECTION 6.12.**

886 Licenses; occupational taxes; excise taxes.

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

891 **SECTION 6.13.**

892 Regulatory fees; permits.

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

898 **SECTION 6.14.**

899 Franchises.

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

909 clerk. The town council may provide by ordinance for the registration within a reasonable
910 time of all franchises previously granted.

911 (b) If no franchise agreement is in effect, the town council has the authority to impose a tax
912 on gross receipts for the use of the town's streets and alleys for the purposes of railroads,
913 street railways, telephone companies, electric companies, electric membership corporations,
914 cable television and other telecommunications companies, gas companies, transportation
915 companies, and other similar organizations.

916 **SECTION 6.15.**

917 Service charges.

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

922 **SECTION 6.16.**

923 Special assessments.

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

928 **SECTION 6.17.**

929 Construction; other taxes and fees.

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

933 **SECTION 6.18.**

934 Collection of delinquent taxes.

935 The town council, by ordinance, may provide for the collection of delinquent taxes, fees, or
936 other revenue due the town under Sections 6.10 through 6.17 of this charter by whatever
937 reasonable means as are not precluded by law. This shall include providing for the dates

938 when the taxes or fees are due; late penalties or interest; issuance and execution of fi.fas;
 939 creation and priority of liens; making delinquent taxes and fees personal debts of the persons
 940 required to pay the taxes or fees imposed; revoking town issued permits for failure to pay any
 941 town taxes or fees; and providing for the assignment or transfer of tax executions.

942 **CHAPTER 2**

943 **Indebtedness.**

944 **SECTION 6.19.**

945 **General obligation bonds.**

946 The town council shall have the power to issue bonds for the purpose of raising revenue to
 947 carry out any project, program, or venture authorized under this charter or the laws of the
 948 state. Such bonding authority shall be exercised in accordance with the laws governing bond
 949 issuance by municipalities in effect at the time such issue is undertaken.

950 **SECTION 6.20.**

951 **Revenue bonds.**

952 Revenue bonds may be issued by the town council as state law now or hereafter provides.
 953 Such bonds are to be paid out of any revenue produced by the project, program, or venture
 954 for which they were issued.

955 **SECTION 6.21.**

956 **Short-term loans.**

957 The town may obtain short-term loans and must repay such loans not later than December 31
 958 of each year, unless otherwise provided by law.

959 **SECTION 6.22.**

960 **Lease-purchase contracts.**

961 The town may enter into multiyear lease, purchase, or lease-purchase contracts for the
 962 acquisition of goods, materials, real and personal property, services, and supplies provided
 963 the contract terminates without further obligation on the part of the municipality at the close
 964 of the calendar year in which it was executed and at the close of each succeeding calendar
 965 year for which it may be renewed. Contracts shall be executed in accordance with the

966 requirements of Code Section 36-60-13 of the O.C.G.A. or other such applicable laws as are
967 or may hereafter be enacted.

968 **CHAPTER 3**
969 Accounting and budgeting.

970 **SECTION 6.30.**
971 Fiscal year.

972 The town council shall set the fiscal year by ordinance. Such fiscal year shall constitute the
973 budget year and the year for financial accounting and reporting of each office, department
974 or institution, agency, and activity of the town government, unless otherwise provided by
975 state or federal law.

976 **SECTION 6.31.**
977 Submission of operating budget to town council.

978 On or before a date fixed by the town council but not later than 30 days prior to the
979 beginning of each fiscal year, the mayor shall submit to the town council a proposed
980 operating budget for the ensuing fiscal year. The operating budget hereinafter provided for
981 and all supporting documents shall be filed in the office of the town clerk and shall be open
982 to public inspection.

983 **SECTION 6.32.**
984 Action by town council on budget.

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

990 (b) The town council by ordinance shall adopt the final operating budget for the ensuing
991 fiscal year not later than ten days prior to the beginning of such fiscal year. If the town
992 council fails to adopt the budget by this date, the amounts appropriated for operation for the
993 current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month
994 basis, with all items prorated accordingly until such time as the town council adopts a budget
995 for the ensuing fiscal year. Adoption of the budget shall take the form of an appropriations

996 ordinance setting out the estimated revenues in detail by sources and making appropriations
997 according to fund and by organizational unit, purpose, or activity.

998 (c) The amount set out in the adopted operating budget for each organizational unit shall
999 constitute the annual appropriation for such, and no expenditure shall be made or
1000 encumbrance created in excess of the otherwise unencumbered balance of the appropriations
1001 or allotment thereof to which it is chargeable.

1002 **SECTION 6.33.**

1003 Tax levies.

1004 The town council shall levy by ordinance such taxes as are necessary. The taxes and tax
1005 rates set by such ordinances shall be such that reasonable estimates of revenues from such
1006 levy shall at least be sufficient, together with other anticipated revenues, fund balances, and
1007 applicable reserves, to equal the total amount appropriated for each of the several funds set
1008 forth in the annual operating budget for defraying the expenses of the general government
1009 of the town.

1010 **SECTION 6.34.**

1011 Changes in appropriations.

1012 The town council by ordinance may make changes in the appropriations contained in the
1013 current operating budget at any regular, special, or emergency meeting called for such
1014 purpose, but any additional appropriations may be made only from an existing unexpended
1015 surplus.

1016 **SECTION 6.35.**

1017 Independent audit.

1018 There shall be an annual independent audit of all town accounts, funds, and financial
1019 transactions by a certified public accountant selected by the town council. The audit shall
1020 be conducted according to generally accepted auditing principles. Any audit of any funds
1021 by the state or federal governments may be accepted as satisfying the requirements of this
1022 charter. Copies of annual audit reports shall be available at printing cost to the public.

1023 CHAPTER 4

1024 Procurement and property management.

1025 **SECTION 6.40.**

1026 Contracting procedures.

1027 No contract with the town shall be binding on the town unless:

1028 (1) It is in writing;

1029 (2) It is drawn by or submitted to and reviewed by the town attorney, and as a matter of
1030 course, is signed by the town attorney to indicate such drafting or review; and

1031 (3) It is made or authorized by the town council and such approval is entered in the town
1032 council journal of proceedings.

1033 **SECTION 6.41.**

1034 Centralized purchasing.

1035 The town council shall by ordinance prescribe procedures for a system of centralized
1036 purchasing for the Town of Lyerly.

1037 **SECTION 6.42.**

1038 Sale and lease of town property.

1039 (a) The town council may sell and convey, or lease any real or personal property owned or
1040 held by the town for governmental or other purposes as now or hereafter provided by law.

1041 (b) The town council may quitclaim any rights it may have in property not needed for public
1042 purposes upon report by the mayor and adoption of a resolution, both finding that the
1043 property is not needed for public or other purposes and that the interest of the town has no
1044 readily ascertainable monetary value.

1045 (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place
1046 of the town, a small parcel or tract of land is cut off or separated by such work from a larger
1047 tract or boundary of land owned by the town, the town council may authorize the mayor to
1048 sell and convey such cut-off or separated parcel or tract of land to an abutting or adjoining
1049 property owner or owners where such sale and conveyance facilitates the enjoyment of the
1050 highest and best use of the abutting owner's property. Included in the sales contract shall be
1051 a provision for the rights-of-way of such street, avenue, alley, or public place. Each abutting
1052 property owner shall be notified of the availability of the property and given the opportunity
1053 to purchase such property under such terms and conditions as set out by ordinance. All deeds

1054 and conveyances heretofore and hereafter so executed and delivered shall convey all title and
1055 interest the town has in such property, notwithstanding the fact that no public sale after
1056 advertisement was or is hereafter made.

1057 **ARTICLE VII**
1058 **GENERAL PROVISIONS**

1059 **SECTION 7.10.**
1060 **Bonds for officials.**

1061 The officers and employees of this town, both elective and appointive, shall execute such
1062 surety or fidelity bonds in such amounts and upon such terms and conditions as the town
1063 council shall from time to time require by ordinance or as may be provided by law.

1064 **SECTION 7.11.**
1065 **Prior ordinances.**

1066 All ordinances, resolutions, rules, and regulations now in force in the town not inconsistent
1067 with this charter are hereby declared valid and of full effect and force until amended or
1068 repealed by the town council.

1069 **SECTION 7.12.**
1070 **Existing personnel and officers.**

1071 Except as specifically provided otherwise by this charter, all personnel and officers of the
1072 town and their rights, privileges, and powers shall continue beyond the time this charter takes
1073 effect for a period of 30 days before or during which the town council shall pass a transition
1074 ordinance detailing the changes in personnel and appointive officers required or desired and
1075 arranging such titles, rights, privileges, and powers as may be required or desired to allow
1076 a reasonable transition.

1077 **SECTION 7.13.**
1078 **Pending matters.**

1079 Except as specifically provided otherwise by this charter, all rights, claims, actions, orders,
1080 contracts, and legal or administrative proceedings shall continue and any such ongoing work

1081 or cases shall be completed by such town agencies, personnel, or offices as may be provided
1082 by the town council.

1083 **SECTION 7.14.**

1084 Construction.

1085 (a) Section captions in this charter are informative only and are not to be considered as a part
1086 thereof.

1087 (b) The word "shall" is mandatory and the word "may" is permissive.

1088 (c) The singular shall include the plural, the masculine shall include the feminine, and vice
1089 versa.

1090 **SECTION 7.15.**

1091 Severability.

1092 If any article, section, subsection, paragraph, sentence, or part thereof of this charter shall be
1093 held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect
1094 or impair other parts of this charter unless it clearly appears that such other parts are wholly
1095 and necessarily dependent upon the part held to be invalid or unconstitutional, it being the
1096 legislative intent in enacting this charter that each article, section, subsection, paragraph,
1097 sentence, or part thereof be enacted separately and independent of each other.

1098 **SECTION 7.16.**

1099 Repealer.

1100 An Act incorporating the Town of Lyerly in the County of Chattooga, approved April 5,
1101 1976 (Ga. L. 1976, p. 4051), is hereby repealed in its entirety and all amendatory acts thereto
1102 are likewise repealed in their entirety.

1103 **SECTION 7.17.**

1104 Effective date.

1105 This charter shall become effective on July 1, 2012.

1106

SECTION 7.18.

1107

General repealer.

1108 All laws and parts of laws in conflict with this Act are repealed.