

House Bill 247

By: Representative Battles of the 15th

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the City of Emerson; to provide for incorporation, boundaries,
2 and powers of the city; to provide for a governing authority of such city and the powers,
3 duties, authority, election, terms, vacancies, 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 city manager, mayor, and mayor pro tempore and
8 certain duties, powers, and other matters relative thereto; to provide for administrative affairs
9 and responsibilities; to provide for boards, commissions, and authorities; to provide for a city
10 attorney, a city clerk, and other personnel and matters relating thereto; to provide for rules
11 and regulations; to provide for a municipal court and the judge or judges thereof and other
12 matters relative to those judges; to provide for the court's jurisdiction, powers, practices, and
13 procedures; to provide for the right of certiorari; to provide for elections; to provide for
14 taxation, licenses, and fees; to provide for franchises, service charges, and assessments; to
15 provide for bonded and other indebtedness; to provide for auditing, accounting, budgeting,
16 and appropriations; to provide for city contracts and purchasing; to provide for the
17 conveyance of property and interests therein; to provide for bonds for officials; to provide
18 for prior ordinances and rules, pending matters, and existing personnel; to provide for
19 penalties; to provide for definitions and construction; to provide for other matters relative to
20 the foregoing; to repeal a specific Act; to provide for effective dates; to repeal conflicting
21 laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I

INCORPORATION AND POWERS

SECTION 1.10.

Name.

The City of Emerson, in Bartow County, Georgia, is reincorporated by the enactment of this charter and are hereby constituted and declared a body politic and corporate under the name and style Emerson, Georgia, and by that name shall have perpetual succession.

SECTION 1.11.

Corporate boundaries.

(a) The boundaries of this city shall be those existing on the effective date of the adoption of this charter with such alterations as may be made from time to time in the manner provided by law. The boundaries of this city at all times shall be shown on a map, a written description, or any combination thereof, to be retained permanently in the office of the city clerk and to be designated, as the case may be: "Official Map (or Description) of the corporate limits of the City of Emerson, Georgia." Photographic, typed, or other copies of such map or description certified by the city clerk shall be admitted as evidence in all courts and shall have the same force and effect as with the original map or description.

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

SECTION 1.12.

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 charter. This city shall have all the powers of self-government not otherwise prohibited by this charter 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 under this charter;

(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, fire safety, gas, and heating and air-conditioning codes; and to regulate all housing and building trades;

(4) Business regulation and taxation. To levy and to provide for collection of regulatory fees and taxes on privileges, occupations, trades, and professions as authorized by Title 48 of the Official Code of Georgia Annotated, or such other 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. To condemn property as granted to municipalities under the general laws of the State of Georgia, utilizing procedures enumerated in Title 22 of the O.C.G.A. or such other applicable laws as are now or may hereafter be enacted;

(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 outside 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 this state through the preservation and improvement of air quality, the restoration and maintenance of water resources, the control of erosion and sedimentation, the management of stormwater and the establishment of a stormwater utility, the management of solid and hazardous waste, and other necessary actions for the protection of the environment;

(9) 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;

(10) 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;

(11) 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;

(12) 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;

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

(14) Jail sentences. To provide that persons given jail sentences in the municipal 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;

(15) 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;

(16) Municipal agencies and delegation of power. To create, alter, or abolish departments, boards, offices, commissions, 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;

(17) 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 and the laws of the State of Georgia;

(18) 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;

(19) 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;

(20) 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, stormwater management, gas works, electric light plants, cable television and other telecommunications, transportation facilities, public airports, and any other public utility; and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties, and to provide for the withdrawal of service for refusal or failure to pay the same;

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

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

(23) Planning and zoning. To provide comprehensive city planning for development by zoning; and to provide subdivision regulation and the like as the city council deems necessary and reasonable to ensure a safe, healthy, and aesthetically pleasing community;

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

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

(26) Public improvements. To provide for the acquisition, construction, building, operation, and maintenance of public ways, parks and playgrounds, recreational facilities, cemeteries, markets and market houses, public buildings, libraries, public housing, airports, hospitals, terminals, docks, parking facilities, or charitable, cultural, educational, recreational, conservation, sport, curative, corrective, detentional, penal and medical institutions, agencies, and facilities; and to provide any other public improvements, inside or outside the corporate limits of the city; to regulate the use of public improvements; and for such purposes, property may be acquired by condemnation under Title 22 of the O.C.G.A. or such other applicable laws as are now or may hereafter be enacted;

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

(28) Public transportation. To organize and operate or contract for such public transportation systems as are deemed beneficial;

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

(30) Regulation of roadside areas. To prohibit or regulate and control the erection, removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any 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;

(31) Retirement. To provide and maintain a retirement plan and other employee benefit plans and programs for officers and employees of the city;

(32) 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; and 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;

(33) Sewer fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring, constructing, equipping, operating, maintaining, and extending of a sewage disposal plant and sewerage system, and to levy on those to whom sewers and sewerage systems are made available a sewer service fee, charge, or sewer tax for the availability or use of the sewers; to provide for the manner and method of collecting such service charges and for enforcing payment of the same; and to charge, impose, and collect a sewer connection fee or fees to those connected with the system;

(34) 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;

(35) Special areas of public regulation. To regulate or prohibit junk dealers, the manufacture and sale of intoxicating liquors; to regulate the transportation, storage and use of combustible, explosive and inflammable materials, the use of lighting and heating equipment, and any other business or situation which may be dangerous to persons or property; to regulate and control the conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows of any kind, by taxation or otherwise; to license and tax professional fortunetelling, palmistry, and massage parlors; and to restrict adult bookstores to certain areas;

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

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

(38) Taxes: other. To levy and collect such other taxes 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; and to regulate the parking of such vehicles;

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

(41) 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; and 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 no listing of particular powers in this charter shall be held to be exclusive of others, nor 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 1.13.

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 charter. 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.

ARTICLE II

GOVERNMENT STRUCTURE

SECTION 2.10.

City council creation; number; election.

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

SECTION 2.11.

City councilmembers; terms and qualifications for office.

The members of the city council shall serve for terms of four years and until their respective successors are elected and qualified. The term of office of each member of the city council shall begin on the first day of January immediately following the election of such member unless general law authorizes or requires the term to begin at the first organizational meeting in January or upon some other date. No person shall be eligible to serve as mayor or councilmember unless that person shall have been a resident of the city for twelve (12) months prior to the date of the election of the mayor or members of the city council. Each shall continue to reside therein during that person's period of service and to be registered and qualified to vote in municipal elections of this city.

SECTION 2.12.

Vacancy; filling of vacancies; suspensions.

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

(b) Filling of vacancies. A vacancy in the office of mayor or councilmember shall be filled for the remainder of the unexpired term, if any, by appointment if less than 24 months remain in the unexpired term, otherwise by an election as provided for in Section 5.14 of this charter and Titles 21 and 45 of the O.C.G.A, or such other laws as are or may hereafter be enacted.

(c) Suspension. Upon the suspension from office of mayor or councilmember in any manner authorized by the general laws of the State of Georgia, the city council or those remaining shall appoint a successor for the duration of the suspension. If the suspension becomes permanent, then the office shall become vacant and shall be filled for the remainder of the unexpired term, if any, as provided for in this charter.

SECTION 2.13.

Compensation and expenses.

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

SECTION 2.14.

Holding other office; voting when personally interested.

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

(b) Conflict of interest. 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 that person's official duties or which would tend to impair the independence of that person's judgment or action in the performance of that person's 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 that person's official duties or would tend to impair the independence of that person's judgment or action in the performance of that person's official duties;

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

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

(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 that person has a financial interest.

(c) Disclosure. Any elected official, appointed officer, or employee who shall have any financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city shall disclose such interest to the city council. The mayor or any councilmember who has a financial interest in any matter pending before the city council shall disclose such interest and such disclosure shall be entered on the records of the city council, and that official 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 financial interest, directly or indirectly, in any contract or matter pending before or within such entity shall disclose such interest to the governing body of such agency or entity.

(d) Use of public property. 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 or profit but shall use such property only in their capacity as an officer or employee of the city.

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

(f) Ineligibility of elected official. Except where authorized by law, neither the mayor nor any councilmember shall hold any other elective or compensated appointive office in the city or otherwise be employed by said government or any agency thereof during the term for which that person was elected. No former councilmember and no former mayor shall hold any compensated appointive office in the city until one year after the expiration of the term for which that person was elected.

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

(h) Penalties for violation:

(1) Any city officer or employee who knowingly conceals such financial interest or knowingly violates any of the requirements of this section shall be guilty of malfeasance in office or position and shall be deemed to have forfeited that person's office or position.

(2) Any officer or employee of the city who shall forfeit that person's office or position as described in paragraph (1) of this subsection shall be ineligible for appointment or election to or employment in a position in the city government for a period of three years thereafter.

SECTION 2.15.

Inquiries and investigations.

Following the adoption of an authorizing resolution, the city council may make inquiries and investigations into the affairs of the city and conduct of any department, office, or agency thereof and for this purpose may subpoena witnesses, administer oaths, take testimony, and

334 require the production of evidence. Any person who fails or refuses to obey a lawful order
335 issued in the exercise of these powers by the city council shall be punished as may be
336 provided by ordinance.

337 **SECTION 2.16.**

338 General power and authority of the city council.

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

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

348 **SECTION 2.17.**

349 Eminent domain.

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

358 **SECTION 2.18.**

359 Oaths.

360 The oath of office shall be administered by the city clerk or other designee to the newly
361 elected members as follows:

362 "I do solemnly swear that I will faithfully perform the duties of (mayor) (councilmember)
363 of this city and that I will support and defend the charter thereof as well as the Constitution
364 and laws of the State of Georgia and the United States of America."

365 "I am not the holder of any unaccounted for public money due this state or any political
366 subdivision or authority thereof. I am not the holder of any office of trust under the
367 government of the United States, any other state, or any foreign state which I by the laws
368 of the State of Georgia am prohibited from holding. I am otherwise qualified to hold said
369 office according to the Constitution and laws of Georgia. I have been a resident of the City
370 of Emerson for the time required by the Constitution and laws of this state and by the
371 municipal charter. I will perform the duties of my office in the best interest of the City of
372 Emerson to the best of my ability without fear, favor, affection, reward, or expectation
373 thereof."

374 **SECTION 2.19.**

375 Regular and special meetings.

- 376 (a) The city council shall hold regular meetings at such times and places as shall be
377 prescribed by ordinance.
- 378 (b) Special meetings of the city council may be held on call of the mayor or three members
379 of the city council. Notice of such special meeting shall be served on all other members
380 personally, or by telephone personally, at least 48 hours in advance of the meeting. Such
381 notice to councilmembers shall not be required if the mayor and all councilmembers are
382 present when the special meeting is called. Such notice of any special meeting may be
383 waived by a councilmember in writing before or after such a meeting, and attendance at the
384 meeting shall also constitute a waiver of notice on any business transacted in such
385 councilmember's presence. Only the business stated in the call shall be transacted at the
386 special meeting.
- 387 (c) All meetings of the city council shall be public to the extent required by law, and notice
388 to the public of special meetings shall be made as fully as is reasonably possible as provided
389 by Code Section 50-14-1 of the O.C.G.A., or other such applicable laws as are or may
390 hereafter be enacted.

391 **SECTION 2.20.**

392 Rules of procedure.

- 393 (a) The city council shall adopt its rules of procedure and order of business consistent with
394 the provisions of this charter and shall provide for keeping of a journal of its proceedings,
395 which shall be a public record.

396 (b) All committees and committee chairpersons and officers of the city council shall be
397 appointed by the mayor and shall serve at the pleasure of the mayor. The mayor shall have
398 the power to appoint new members to any committee at any time.

399 **SECTION 2.21.**

400 Quorum; voting.

401 (a) Three members of the city council shall constitute a quorum and shall be authorized to
402 transact business of the city council. Voting on the adoption of ordinances shall be by voice
403 vote, and the vote shall be recorded in the journal, but any member of the city council shall
404 have the right to request a roll-call vote, and such vote shall be recorded in the journal.
405 Except as otherwise provided in this charter, the affirmative vote of three members of the city
406 council shall be required for the adoption of any ordinance, resolution, or motion.

407 (b) No member of the city council shall abstain from voting on any matter properly brought
408 before the council for official action except when such councilmember has a conflict of
409 interest, which is disclosed in writing prior to or at the meeting and made a part of the
410 minutes. Any member of the city council present and eligible to vote on a matter and
411 refusing to do so for any reason other than a properly disclosed and recorded conflict of
412 interest shall be deemed to have acquiesced or concurred with the members of the majority
413 who did vote on the question involved.

414 (c) For purposes of establishing a quorum and voting, the mayor shall be deemed to be a
415 member of the city council.

416 **SECTION 2.22.**

417 Ordinance form; procedures.

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

422 (b) An ordinance may be introduced by the mayor or any member of the city council and be
423 read at a regular or special meeting of the city council. Ordinances shall be considered and
424 adopted or rejected by the city council in accordance with the rules which it shall establish;
425 provided, however, that an ordinance shall not be adopted the same day it is introduced,
426 except for emergency ordinances provided for in Section 2.24 of this charter. Upon
427 introduction of any ordinance, the clerk shall as soon as possible distribute a copy to the

428 mayor and to each councilmember and shall file a reasonable number of copies in the office
429 of the clerk and at such other public places as the city council may designate.

430 **SECTION 2.23.**

431 Action requiring an ordinance.

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

434 **SECTION 2.24.**

435 Emergencies.

436 (a) To meet a public emergency affecting life, health, property, or public peace, the city
437 council may convene on call of the mayor or three councilmembers and may promptly adopt
438 an emergency ordinance, but such ordinance shall not levy taxes; grant, renew, or extend a
439 franchise; regulate the rate charged by any public utility for its services; or authorize the
440 borrowing of money except for loans to be repaid within thirty (30) days. An emergency
441 ordinance shall be introduced in the form prescribed for ordinances generally, except that it
442 shall be plainly designated as an emergency ordinance and shall contain, after the enacting
443 clause, a declaration stating that an emergency exists and describing the emergency in clear
444 and specific terms. An emergency ordinance may be adopted, with or without amendment,
445 or rejected at the meeting at which it is introduced, but the affirmative vote of at least three
446 (3) councilmembers shall be required for adoption. It shall become effective upon adoption
447 or at such later time as it may specify. Every emergency ordinance shall automatically stand
448 repealed thirty (30) days following the date upon which it was adopted, but this shall not
449 prevent reenactment of the ordinance in the manner specified in this section if the emergency
450 still exists. An emergency ordinance may also be repealed by adoption of a repealing
451 ordinance in the same manner specified in this section for adoption of emergency ordinances.
452 (b) Such meetings shall be open to the public to the extent required by law and notice to the
453 public of emergency meetings shall be made as fully as is reasonably possible in accordance
454 with Code Section 50-14-1 of the O.C.G.A., or such other applicable laws as are or may
455 hereafter be enacted.

SECTION 2.25.

Codes of technical regulations.

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

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

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

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

SECTION 2.26.

Signing; authenticating; recording; codification; printing.

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

(b) The city council shall provide for the preparation of a general codification of all the ordinances of the city having the force and effect of law. The general codification shall be adopted by the city council by ordinance and shall be published promptly, together with all amendments thereto and such codes of technical regulations and other rules and regulations as the city council may specify. This compilation shall be known and cited officially as "The Code of the City of Emerson, Georgia." Copies of the code shall be furnished to all officers, departments, and agencies of the city, and made available for purchase by the public at a reasonable price as fixed by the city council.

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

SECTION 2.27.

City manager; appointment; qualifications; compensation.

The city council shall appoint a city manager for an indefinite term and shall fix the city manager's compensation. The city manager shall be appointed solely on the basis of that person's executive and administrative qualifications.

SECTION 2.28.

Removal of city manager.

The city manager is employed at will and may be summarily removed from office at any time by the city council.

SECTION 2.29.

Acting city manager.

By letter filed with the city clerk, the city manager shall designate, subject to approval of the city council, a qualified city administrative officer to exercise the powers and perform the duties of city manager during the city manager's temporary absence or physical or mental disability. During such absence or disability, the city council may revoke such designation at any time and appoint another officer of the city to serve until the city manager shall return or the city manager's disability shall cease.

SECTION 2.30.

Powers and duties of the city manager.

The city manager shall be the chief administrative officer of the city. The city manager shall be responsible to the city council for the administration of all city affairs placed in the city manager's charge by or under this charter. As the chief administrative officer, the city manager shall:

(1) Appoint and, when the city manager deems it necessary for the good of the city, suspend or remove all city employees and administrative officers the city manager appoints, except as otherwise provided by law or personnel ordinances adopted pursuant to this charter. The city manager may authorize any administrative officer who is subject to the city manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;

- (2) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law;
- (3) Attend all city council meetings, unless otherwise excused therefrom, except for closed meetings held for the purposes of deliberating on the appointment, discipline, or removal of the city manager, and have the right to take part in discussion, but the city manager may not vote;
- (4) See that all laws, provisions of this charter, and acts of the city council, subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual operating budget and capital budget to the mayor;
- (6) Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
- (7) Make such other reports as the city council may require concerning the operations of city departments, offices, and agencies subject to the city manager's direction and supervision;
- (8) Keep the city council fully advised as to the financial condition and future needs of the city, and make such recommendations to the city council concerning the affairs of the city as the city manager deems desirable; and
- (9) Perform other such duties as are specified in this charter or as may be required by the city council.

SECTION 2.31.

Council's interference with administration.

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

SECTION 2.32.

Election of mayor; forfeiture; compensation.

The mayor shall be elected and shall serve for a term of four years and until the mayor's successor is elected and qualified. The mayor shall be a qualified elector of this city and shall have been a resident of the city for twelve (12) months prior to the election. The mayor shall continue to reside in this city during the period of the mayor's service. The mayor shall

552 forfeit the office of mayor on the same grounds and under the same procedure as for
553 councilmembers. The compensation of the mayor shall be established in the same manner
554 for councilmembers.

555 **SECTION 2.33.**

556 Mayor pro tempore.

557 By a majority vote, the councilmembers shall elect a councilmember to serve as mayor pro
558 tempore. The mayor pro tempore shall assume the duties and powers of the mayor during
559 the mayor's physical or mental disability or absence. The mayor pro tempore shall continue
560 to vote and otherwise participate as a councilmember. Any such disability or absence shall
561 be declared by a majority vote of the councilmembers. The mayor pro tempore shall sign all
562 contracts and ordinances in which the mayor has a disqualifying financial interest as
563 provided in Section 2.14 of this charter.

564 **SECTION 2.34.**

565 Powers and duties of mayor.

566 The mayor shall be the chief executive officer of the city. As the chief executive officer, the
567 mayor shall:

- 568 (1) Preside at all meetings of the city council;
569 (2) Be the head of the city for the purpose of service of process and for ceremonial
570 purposes and be the official spokesperson for the city and the chief advocate of policy;
571 (3) Have the power to administer oaths and to take affidavits;
572 (4) Sign as a matter of course on behalf of the city all written and approved contracts,
573 ordinances, and other instruments executed by the city, which by law are required to be in
574 writing;
575 (5) Vote on matters before the city council and be counted toward a quorum as any other
576 councilmember;
577 (6) Prepare and submit to the city council a recommended annual operating budget and
578 recommended capital budget; and
579 (7) Fulfill such other executive duties as the city council shall by ordinance establish.

580 **ARTICLE III**
581 **ADMINISTRATIVE AFFAIRS**
582 **SECTION 3.10.**

583 Administrative and service departments.

584 (a) Except as otherwise provided in this charter, the city council, by ordinance, shall
585 prescribe the functions or duties, and establish, abolish, alter, consolidate, or leave vacant all
586 non-elective offices, positions of employment, departments, and agencies of the city as
587 necessary for the proper administration of the affairs and government of this city.

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

591 (c) All appointed officers and directors of departments shall receive such compensation as
592 prescribed by ordinance or resolution.

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

597 (e) All appointed officers and directors under the supervision of the city manager shall be
598 nominated by the city manager with confirmation of appointment by the city council. All
599 appointed officers and directors shall be employees at will and subject to removal or
600 suspension at any time by the city manager unless otherwise provided by law or ordinance.

601 **SECTION 3.11.**

602 Boards, commissions, and authorities.

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

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

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

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

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

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

622 (g) All members of boards, commissions, or authorities of the city serve at will and may be
623 removed at any time by the city council unless otherwise provided by law.

624 (h) Except as otherwise provided by this charter or by law, each board, commission, or
625 authority of the city shall elect one of its members as chairperson and one member as vice
626 chairperson and may elect as its secretary one of its own members or may appoint as
627 secretary an employee of the city. Each board, commission, or authority of the city
628 government may establish such bylaws, rules, and regulations, not inconsistent with this
629 charter, ordinances of the city, or law, as it deems appropriate and necessary for the
630 fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and
631 regulations shall be filed with the clerk of the city.

632 **SECTION 3.12.**

633 City attorney.

634 (a) The city council shall appoint a city attorney, together with such assistant city attorneys
635 as may be authorized, and shall provide for the payment of such attorney or attorneys for
636 services rendered to the city. The city attorney shall be responsible for providing for the
637 representation and defense of the city in all litigation in which the city is a party; may be the
638 prosecuting officer in the municipal court; shall attend the meetings of the city council as
639 directed; shall advise the councilmembers, mayor, and other officers and employees of the
640 city concerning legal aspects of the city's affairs; and shall perform such other duties as may
641 be required by virtue of such person's position as city attorney.

642 (b) The city attorney is not a public official of the city and does not take an oath of office.
643 The city attorney shall at all times be an independent contractor. A law firm, rather than an
644 individual, may be designated as the city attorney.

SECTION 3.13.

City clerk.

The councilmembers shall appoint a city clerk who shall not be a councilmember. The city clerk shall be custodian of the official city seal and city records; maintain city council records required by this charter; and perform such other duties as may be required by the city council.

SECTION 3.14.

Position classification and pay plans.

The city manager shall be responsible for the preparation of a position classification and pay plan, which shall be submitted to the city council for approval. Such plan may apply to all employees of the city and any of its agencies, departments, boards, commissions, or authorities. When a pay plan has been adopted, the city council shall not increase or decrease the salary range applicable to any position except by amendment of such pay plan. For purposes of this section, all elected and appointed city officials are not city employees.

SECTION 3.15.

Personnel policies.

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

ARTICLE IV**JUDICIAL BRANCH****SECTION 4.10.**

Creation; name.

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

SECTION 4.11.

Chief judge; associate judge.

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

672 (b) No person shall be qualified or eligible to serve as a judge on the municipal court unless
673 that person shall have attained the age of twenty-one (21) years and shall be a member of the
674 State Bar of Georgia and shall possess all qualifications required by law. All judges shall be
675 appointed by the city council and shall serve until a successor is appointed and qualified.

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

677 (d) Judges serve at will and may be removed from office at any time by the city council
678 unless otherwise provided by ordinance.

679 (e) Before assuming office, each judge shall take an oath, given by the mayor, that such
680 judge will honestly and faithfully discharge the duties of the judge's office to the best of the
681 judge's ability and without fear, favor, or partiality. The oath shall be entered upon the
682 minutes of the city council journal.

683 **SECTION 4.12.**

684 Convening.

685 The municipal court shall be convened at regular intervals.

686 **SECTION 4.13.**

687 Jurisdiction; powers.

688 (a) The municipal court shall try and punish violations of this charter, all city ordinances,
689 and such other violations as provided by law.

690 (b) The municipal court shall have authority to punish those in its presence for contempt,
691 provided that such punishment shall not exceed two hundred dollars (\$200.00) or ten (10)
692 days in jail.

693 (c) The municipal court may fix punishment for offenses within its jurisdiction not
694 exceeding a fine of two thousand five hundred dollars (\$2,500.00) or imprisonment for
695 twelve (12) months or both such fine and imprisonment or may fix punishment by fine,
696 imprisonment, or alternative sentencing, as now or hereafter provided by law.

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

700 (e) The municipal court shall have authority to establish bail and recognizances to ensure
701 the presence of those charged with violations before such court and shall have discretionary
702 authority to accept cash or personal or real property as surety for the appearance of persons
703 charged with violations. Whenever any person shall give bail for that person's appearance
704 and shall fail to appear at the time fixed for trial, that person's bond shall be forfeited by the

judge presiding at such time and an execution issued thereon by serving the defendant and the defendants sureties with a rule nisi at least two (2) 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, or the property so deposited shall have a lien against it for the value forfeited which lien shall be enforceable in the same manner and to the same extent as a lien for city property taxes.

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

(g) 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 law.

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

SECTION 4.14.

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 Bartow County under the laws of the State of Georgia regulating the granting and issuance of writs of certiorari.

SECTION 4.15.

Rules for court.

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

737 ARTICLE V
738 ELECTIONS AND REMOVAL
739 SECTION 5.10.
740 Applicability of general law.

741 All primaries and elections shall be held and conducted in accordance with Title 21,
742 Chapter 2 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

743 SECTION 5.11.
744 Election of the city council and mayor.

745 (a) There shall be a municipal general election biennially in odd-numbered years on the
746 Tuesday next following the first Monday in November.
747 (b) There shall be elected the mayor and two councilmembers at one election and at every
748 other election thereafter. The remaining councilmember seats shall be filled at the election
749 alternating with the first election so that a continuing body is created. Terms shall be for four
750 years.

751 SECTION 5.12.
752 Nonpartisan elections.

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

755 SECTION 5.13.
756 Election by plurality.

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

758 SECTION 5.14.
759 Special elections; vacancies.

760 In the event that the office of mayor or councilmember shall become vacant as provided in
761 Section 2.12 of this charter, the city council or those remaining shall order a special election
762 to fill the balance of the unexpired term of such official; provided, however, that if such
763 vacancy occurs within twenty-four (24) months of the expiration of the term of that office,
764 the city council or those members remaining shall appoint a successor for the remainder of

765 the term. In all other respects, the special election shall be held and conducted in accordance
766 with Title 21, Chapter 2 of the O.C.G.A., the "Georgia Election Code," as now or hereafter
767 amended.

768 **SECTION 5.15.**

769 Other provisions.

770 Except as otherwise provided by this charter, the city council shall, by ordinance, prescribe
771 such rules and regulations as it deems appropriate to fulfill any options and duties under
772 Title 21, Chapter 2 of the O.C.G.A., the "Georgia Election Code."

773 **SECTION 5.16.**

774 Removal of officers.

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

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

780 (1) Following a hearing at which an impartial panel shall render a decision. In the event
781 an elected officer is sought to be removed by the action of the city council, such officer
782 shall be entitled to a written notice specifying the ground or grounds for removal and to a
783 public hearing, which shall be held not less than ten (10) days after the service of such
784 written notice. The city council shall provide by ordinance for the manner in which such
785 hearings shall be held. Any elected officer sought to be removed from office as provided
786 in this section shall have the right of appeal from the decision of the city council to the
787 Superior Court of Bartow County. Such appeal shall be governed by the same rules as
788 govern appeals to the superior court from the probate court; or

789 (2) By an order of the Superior Court of Bartow County following a hearing on a
790 complaint seeking such removal brought by any resident of the City of Emerson.

791 ARTICLE VI
792 FINANCE
793 **SECTION 6.10.**
794 Property tax.

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

801 **SECTION 6.11.**
802 Millage rate; due dates; payment methods.

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

807 **SECTION 6.12.**
808 Occupation and business taxes.

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

813 **SECTION 6.13.**
814 Licenses; permits; fees.

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

SECTION 6.14.

Franchises.

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

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

SECTION 6.15.

Service charges.

The city council by ordinance shall have the power to assess and collect fees, charges, assessments, and tolls for sewers, sanitary and health services, or any other services provided or made available within and outside the corporate limits of the city. If unpaid, such charges shall be collected as provided in Section 6.18 of this charter.

SECTION 6.16.

Special assessments.

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

850 **SECTION 6.17.**

851 Construction; other taxes.

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

855 **SECTION 6.18.**

856 Collection of delinquent taxes and fees.

857 The city council by ordinance may provide generally for the collection of delinquent taxes,
858 fees, or other revenue due the city under Sections 6.10 through 6.17 of this charter by
859 whatever reasonable means as are not precluded by law. This shall include providing for the
860 dates when the taxes or fees are due; late penalties or interest; issuance and execution of fi.
861 fa.'s.; creation and priority of liens; making delinquent taxes and fees personal debts of the
862 persons required to pay the taxes or fees imposed; revoking city permits for failure to pay any
863 city taxes or fees; and providing for the assignment or transfer of tax executions.

864 **SECTION 6.19.**

865 General obligation bonds.

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

870 **SECTION 6.20.**

871 Revenue bonds.

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

875 **SECTION 6.21.**

876 Short-term loans.

877 The city may obtain short-term loans and shall repay such loans not later than December 31
878 of each year, unless otherwise provided by law.

879 **SECTION 6.22.**

880 Lease-purchase contracts.

881 The city may enter into multiyear lease, purchase, or lease-purchase contracts for the
882 acquisition of goods, materials, real and personal property, services, and supplies, provided
883 the contract terminates without further obligation on the part of the municipality at the close
884 of the calendar year in which it was executed and at the close of each succeeding calendar
885 year for which it may be renewed. Contracts shall be executed in accordance with the
886 requirements of Code Section 36-60-13 of the O.C.G.A., or other such applicable laws as are
887 or may hereafter be enacted.

888 **SECTION 6.23.**

889 Fiscal year.

890 The city council shall set the fiscal year by ordinance. This fiscal year shall constitute the
891 budget year and the year for financial accounting and reporting of each and every office,
892 department, agency, and activity of the city government unless otherwise provided by state
893 or federal law.

894 **SECTION 6.24.**

895 Budget ordinance.

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

900 **SECTION 6.25.**

901 Operating budget.

902 On or before a date fixed by the city council but not later than fifteen (15) days prior to the
903 beginning of each fiscal year, the mayor shall submit to the city council a proposed operating
904 budget for the ensuing fiscal year. The budget shall be accompanied by a message from the
905 mayor containing a statement of the general fiscal policies of the city, the important features
906 of the budget, explanations of major changes recommended for the next fiscal year, a general
907 summary of the budget, and other pertinent comments and information. The operating
908 budget and the capital budget provided for in Section 6.29 of this charter, the budget
909 message, and all supporting documents shall be filed in the office of the city clerk and shall
910 be open to public inspection.

911 **SECTION 6.26.**

912 Action by city council on budget.

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

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

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

931 **SECTION 6.27.**

932 Levy of taxes.

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

939 **SECTION 6.28.**

940 Changes in appropriations.

941 The city council by ordinance may make changes in the appropriations contained in the
942 current operating budget at any regular meeting or special or emergency meeting called for
943 such purpose, but any additional appropriations may be made only from an existing
944 unexpended surplus.

945 **SECTION 6.29.**

946 Capital budget.

947 (a) On or before the date fixed by the city council, but not later than fifteen (15) days prior
948 to the beginning of each fiscal year, the mayor shall submit to the city council a proposed
949 capital improvements plan with a recommended capital budget containing the means of
950 financing the improvements proposed for the ensuing fiscal year. The city council shall have
951 power to accept, with or without amendments, or reject the proposed plan and budget. The
952 city council shall not authorize an expenditure for the construction of any building, structure,
953 work, or improvement unless the appropriations for such project are included in the capital
954 budget, except to meet a public emergency as provided in Section 2.24 of this charter.

955 (b) The city council shall adopt by ordinance the final capital budget for the ensuing fiscal
956 year not later than the last day of each fiscal year. No appropriation provided for in a prior
957 capital budget shall lapse until the purpose for which the appropriation was made shall have
958 been accomplished or abandoned; provided, however, that the mayor may submit
959 amendments to the capital budget at any time during the fiscal year, accompanied by
960 recommendations. Any such amendments to the capital budget shall become effective only
961 upon adoption by ordinance.

SECTION 6.30.**Audits.**

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

SECTION 6.31.**Contracting procedures.**

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

- (1) It is in writing;
- (2) It is drawn by 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
- (3) It is made or authorized by the city council and such approval is entered in the city council journal of proceedings pursuant to Section 2.21 of this charter.

SECTION 6.32.**Purchasing.**

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

SECTION 6.33.**Sale and lease of property.**

- (a) The city council may sell and convey or lease any real or personal property owned or held by the city for governmental or other purposes as now or hereafter provided by law.
- (b) The city council may quitclaim any rights it may have in property not needed for public purposes upon report by the city manager and adoption of a resolution, both finding that the property is not needed for public or other purposes and that the interest of the city has no readily ascertainable monetary value.
- (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place of the city a small parcel or tract of land is cut off or separated by such work from a larger tract or boundary of land owned by the city, the city council may authorize the city manager

992 to sell and convey said cut-off or separated parcel or tract of land to an abutting or adjoining
993 property owner or owners where such sale and conveyance facilitates the highest and best
994 use of the abutting owner's property. Included in the sales contract shall be a provision for
995 the rights of way of said street, avenue, alley, or public place. Each abutting property owner
996 shall be notified of the availability of the property and given the opportunity to purchase said
997 property under such terms and conditions as set out by ordinance. All deeds and
998 conveyances heretofore and hereafter so executed and delivered shall convey all title and
999 interest the city has in such property, notwithstanding the fact that no public sale after
1000 advertisement was or is hereafter made.

1001 **ARTICLE VII**

1002 **GENERAL PROVISIONS**

1003 **SECTION 7.10.**

1004 Bonds for officials.

1005 The officers and employees of this city, both elected and appointed, shall execute such surety
1006 or fidelity bonds in such amounts and upon such terms and conditions as the city council
1007 shall from time to time require by ordinance or as may be provided by law.

1008 **SECTION 7.11.**

1009 Existing ordinances, resolutions, rules, and regulations.

1010 Existing ordinances, resolutions, rules, and regulations of this city not in conflict with this
1011 charter shall continue in force, unless repealed or amended, for two years from the effective
1012 date of this charter. During such two-year period, the city council shall review all such
1013 provisions and shall readopt, repeal, or amend each, so that a codification as provided by
1014 subsection (b) of Section 2.26 of this charter is accomplished.

1015 **SECTION 7.12.**

1016 Pending matters.

1017 Except as specifically provided otherwise by this charter, all rights, claims, actions, orders,
1018 contracts, and legal or administrative proceedings shall continue and any such ongoing work
1019 or cases shall be completed by such city agencies, personnel, or offices as may be provided
1020 by the city council.

SECTION 7.13.

Construction and definitions.

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

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

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

(d) Except as specifically provided otherwise by this charter, the term:

(1) "City council" means the members of the city council and the mayor.

(2) "Councilmember" means a member of the city council other than the mayor.

SECTION 7.14.

Severability.

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

SECTION 7.15.

Specific repealer.

An Act to provide a new charter for the City of Emerson, approved March 24, 1988 (Ga. L. 1988, p. 4549), and all amendatory Acts thereto are hereby repealed.

SECTION 7.16.

Effective date.

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

1047 **SECTION 7.17.**

1048 General repealer.

1049 All laws and parts of laws in conflict with this Act are repealed.