

House Bill 584

By: Representatives Rogers of the 10th, Hawkins of the 27th, and Allison of the 8th

A BILL TO BE ENTITLED
AN ACT

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

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 ARTICLE I

24 INCORPORATION AND POWERS

25 SECTION 1.10.

26 Name.

27 This city and the inhabitants thereof, incorporated as the Town of Cleveland in an Act
 28 approved October 18, 1870 (Ga. L. 1870, p. 182), in an Act approved August 19, 1911 (Ga.
 29 L. 1911, p. 962), and incorporated as the City of Cleveland in an Act approved February 25,
 30 1949 (Ga. L. 1949, p. 1024), as amended, and any territory subsequently added by
 31 annexation and embraced within the corporate boundaries together with the inhabitants of
 32 such area are reincorporated by the enactment of this charter and are hereby constituted and
 33 declared a body politic and corporate under the name and style City of Cleveland, Georgia,
 34 and by that name shall have perpetual succession.

35 SECTION 1.11.

36 Corporate boundaries.

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

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

49 SECTION 1.12.

50 Powers and construction.

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

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

59 (1) Alcoholic Beverages. The keeping for sale, selling, or offering for sale of any
60 spirituous, vinous, malt, or fermented wines or liquors within the corporate limits of said
61 city shall be regulated by the city as provided by law. The city council shall have power
62 or authority to license the sale thereof, consistent with the laws of the State of Georgia,
63 and it shall be the council's duty to enforce this by the enactment of necessary ordinances
64 with suitable penalties for violation;

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

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

74 (4) Building Regulation. To regulate and to license the erection and construction of
75 buildings and all other structures; to adopt building, housing, plumbing, fire safety,
76 electrical, gas, and heating and air conditioning codes; and to regulate all housing and
77 building trades;

78 (5) Business Regulation and Taxation. To levy and to provide for the collection of
79 regulatory fees and taxes on privileges, occupations, trades, and professions as authorized
80 by Title 48 of the Official Code of Georgia Annotated, or other such applicable laws as
81 are or may hereafter be enacted; to permit and regulate the same; to provide for the
82 manner and method of payment of such regulatory fees and taxes; and to revoke such
83 permits after due process for failure to pay any city taxes or fees;

84 (6) Cemeteries. The council shall have jurisdiction over all cemeteries belonging to or
85 located in said city, and may provide by ordinance for a public cemetery. It may appoint
86 such employees to superintend the care of such public cemeteries established by the city
87 by ordinance as it deems proper. It may enact such ordinances to prevent trespass therein
88 and to prevent any person from defacing any work therein. It may regulate the charges
89 for grave digging, hearse fees, and any and every thing pertaining to the care and
90 operation of such cemeteries as are established by the city by ordinance;

91 (7) Condemnation. To condemn property, inside or outside the corporate limits of the
92 city or any combination thereof, for present or future use and for any corporate purpose
93 deemed necessary by the governing authority, utilizing procedures enumerated in Title
94 22 of the Official Code of Georgia Annotated, or such other applicable laws as are or may
95 hereafter be enacted;

96 (8) Contracts. To enter into contracts and agreements with other governmental entities
97 and with private persons, firms, and corporations and with other such legal entities which
98 may be recognized by Georgia law, including but not limited to authorities, trusts,
99 partnerships, and limited partnerships;

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

104 (10) Environmental Protection. To protect and preserve the natural resources,
105 environment, and vital areas of the city, the region, and the state through the preservation
106 and improvement of air quality, the restoration and maintenance of water resources, the
107 control of erosion and sedimentation, the management of stormwater and establishment
108 of a stormwater utility, the management of solid and hazardous waste, and other
109 necessary actions for the protection of the environment;

110 (11) Fire Regulations. To fix and establish fire district limits and from time to time to
111 extend, enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent
112 with general law, relating to both fire prevention and detection and to firefighting; and
113 to prescribe penalties and punishment for violations thereof;

114 (12) Garbage Fees. To levy, fix, assess, and collect a garbage, refuse, and trash
115 collection and disposal and other sanitary service charge, tax, or fee for such services as
116 may be necessary in the operation of the city from all individuals, firms, and corporations
117 and with other such legal entities which may be recognized by Georgia law, including but
118 not limited to authorities, trusts, partnerships, and limited partnerships residing in or
119 doing business therein and benefiting from such services; to enforce the payment of such
120 charges, taxes or fees; and to provide for the manner and method of collection;

121 (13) General Health, Safety, and Welfare. To define, regulate, and prohibit any act or
122 failure to act, practice, conduct, or use of property, or any combination thereof which is
123 detrimental to health, sanitation, cleanliness, welfare, and safety of the inhabitants of the
124 city and to provide for the enforcement of such standards;

125 (14) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for
126 any purpose related to the powers and duties of the city and the general welfare of its

127 citizens, on such terms and conditions acceptable to the city which the donor or grantor
128 may impose;

129 (15) Health and Sanitation. To prescribe standards of health and sanitation and to
130 provide for the enforcement of such standards;

131 (16) Illegal and Immoral Conduct. To suppress lewdness and immoral conduct,
132 gambling, gambling houses, and gambling contrivances of any kind; blind tigers, and
133 places of illegal sale of liquors, wines, or opiates of all kinds or nature; houses of ill fame,
134 bawdy houses, lewd houses, and any premises where prostitution occurs;

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

141 (18) Motor Vehicles. To regulate the operation of motor vehicles, and to exercise
142 control over the movement and parking of such motor vehicles upon and across the
143 streets, roads, designated private ways, alleys, walkways, and parks and the public square
144 of the city;

145 (19) Municipal Agencies and Delegation of Power. To create, alter, and abolish
146 departments, boards, offices, commissions, and agencies of the city and to confer upon
147 such agencies the necessary and appropriate authority for carrying out all the powers
148 conferred upon or delegated to the same;

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

152 (21) Municipal Property Ownership. To acquire, hold (in trust or otherwise), lease, and
153 dispose of any real, personal, or mixed property, in fee simple or lesser interest, which
154 property may be located inside the corporate limits of the city and to acquire, hold (in
155 trust or otherwise), lease, and dispose of any real, personal, or mixed property, in fee
156 simple or lesser interest which property may be located outside the corporate limits of the
157 city;

158 (22) Municipal Property Protection. To establish ordinances, rules, and regulations
159 governing the use, preservation, and protection of the real, personal, and mixed property
160 of the city, and the administration and use of same by the public; and to prescribe
161 penalties and punishment for violations thereof;

162 (23) Municipal Utilities. To acquire, lease, construct, operate, maintain, sell, or dispose
163 of (and any combination thereof) public utilities inside and outside the corporate limits

164 of the city, (including but not limited to systems of waterworks, water distribution,
165 sewers and drains, sewage disposal, stormwater management, wells (including, but not
166 limited to, wells located on private property and leased by the city); gas works; electric
167 light plants; cable television and other telecommunications; transportation facilities;
168 public airports; and any other public utility); to fix the taxes, charges, rates, fares, fees,
169 assessments, regulations, and penalties for such utilities inside and outside the city's
170 corporate limits; and to provide for the withdrawal of service for refusal or failure to pay
171 for any such utilities, regardless of whether such utilities are made available inside the
172 city or outside the city, or inside and outside the city;

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

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

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

180 (27) Police and Fire Protection. To exercise the power of arrest through duly appointed
181 law enforcement officers, and to establish, operate, or contract for, in any combination,
182 a law enforcement agency. To exercise, establish, operate, abolish, or contract for, in any
183 combination, a firefighting agency;

184 (28) Public Hazards: Removal. To provide for the destruction and removal of any
185 building or other structure which is or may become dangerous or detrimental to the
186 public;

187 (29) Public Improvements. To provide for the acquisition, construction, building,
188 operation, and maintenance of public ways, parks and playgrounds, recreational facilities,
189 cemeteries, markets and market houses, public buildings, libraries, public housing,
190 airports, hospitals, terminals, docks, parking facilities, or charitable, cultural, educational,
191 recreational, conservation, sport, curative, corrective, detentional, penal, and medical
192 institutions, agencies, and facilities; and to provide any other public improvements, inside
193 and outside the corporate limits of the city; to regulate the use of public improvements;
194 and for such purposes, property may be acquired by condemnation under Title 22 of the
195 Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter
196 be enacted;

197 (30) Public Peace. To provide for the prevention and punishment of loitering, disorderly
198 conduct, drunkenness, riots, and public disturbances;

199 (31) Public Transportation. To organize and operate such public transportation systems
200 as are deemed beneficial;

201 (32) Public Utilities and Services. To grant franchises to public utilities and public
202 service companies, or make contracts with public utilities and public service corporations,
203 or impose taxes on public utilities and public service companies, or any combination
204 thereof; and to prescribe the rates, fares, regulations, and standards and conditions of
205 service applicable to the service to be provided by the franchise grantee or contractor,
206 insofar as not in conflict with valid regulations of the Public Service Commission;

207 (33) Regulation of Roadside Areas. To prohibit or regulate and control the erection,
208 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any
209 and all other structures or obstructions upon or adjacent to the rights-of-way of streets and
210 roads or within view thereof, within or abutting the corporate limits of the city; and to
211 prescribe penalties and punishment for violation of such ordinances;

212 (34) Retirement. To provide and maintain a retirement plan and other employee benefit
213 plans and programs for the elected officers of the city, the employees of the city, and for
214 any such other appointed officers of the city which the city council may designate;

215 (35) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade
216 of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise
217 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and
218 walkways within the corporate limits of the city; to authorize and control the construction
219 of bridges, overpasses, and underpasses within the corporate limits of the city; and to
220 grant franchises and rights-of-way throughout the streets and roads and over the bridges
221 and viaducts for the use of public utilities;

222 (36) Sewer Fees. To levy such fees, charges, and taxes as may be authorized by
223 ordinance for the purpose of acquiring, constructing, equipping, operating, maintaining,
224 and extending of sewage treatment plants and sewerage systems and to levy on those to
225 whom sewers and sewerage systems are made available such service fees, charges, and
226 taxes and for enforcing payment of the same; and to charge, impose, and collect from
227 those seeking service from such plants and systems, such connection fees or charges for
228 the privilege of receiving service from such plants and systems as may be authorized by
229 ordinance;

230 (37) Solid Waste Disposal. To provide for the collection and disposal of garbage,
231 rubbish, and refuse and to regulate the collection and disposal of garbage, rubbish, and
232 refuse by others; and to provide for the separate collection of glass, tin, aluminum,
233 cardboard, paper, and other recyclable materials, and to provide for the sale of such
234 items;

235 (38) Special Areas of Public Regulation. To regulate or prohibit junk dealers and pawn
236 shops, the manufacture and sale of intoxicating liquors; to regulate the transportation,
237 storage, and use of combustible, explosive, and inflammable materials, the use of lighting

238 and heating equipment, and any other business or situation which may be dangerous to
239 persons or property; to regulate and control the conduct of peddlers and itinerant traders,
240 theatrical performances, exhibitions, traveling carnivals, helicopter rides, hot air balloon
241 rides, and shows of any kind, by taxation or otherwise; to license and tax professional
242 fortunetelling, palmistry, and massage parlors; and to restrict adult bookstores, stores
243 offering adult videos, and stores offering adult toys to certain areas;

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

246 (40) Taxes: Ad Valorem. To levy and provide for the assessment, valuation, revaluation,
247 and collection of taxes on all property subject to taxation;

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

250 (42) Trees. To adopt and enforce ordinances for the protection and preservation of trees
251 on the streets, public places, cemeteries, new developments, parks, and public squares in
252 the city and to prevent the cutting, impairing, or mutilations thereof by telephone, cable,
253 or electric light linemen or employees or any other person unless the same is done under
254 and with the express and formal consent of the council or some other officer appointed
255 by the council to direct the same and then only when absolutely necessary for the public
256 service or safety;

257 (43) Urban Redevelopment. To organize, operate, and abolish an urban redevelopment
258 program and to define the area in which said program may operate;

259 (44) Vehicles for Hire. To regulate and license vehicles operated for hire in the city; to
260 limit the number of such vehicles; to require the operators thereof to be licensed; to
261 require public liability insurance on such vehicles in the amounts to be prescribed by
262 ordinance; and to regulate the parking of such vehicles; and

263 (45) Other Powers. To exercise and enjoy all other powers, functions, rights, privileges,
264 and immunities necessary or desirable to promote or protect the safety, health, peace,
265 security, good order, comfort, convenience, or general welfare of the city and its
266 inhabitants; and to exercise all implied powers necessary or desirable to carry into
267 execution all powers granted in this charter as fully and completely as if such powers
268 were fully stated herein; and to exercise all powers now or in the future authorized to be
269 exercised by other municipal governments under other laws of the State of Georgia; and
270 no listing of particular powers in this charter shall be held to be exclusive of others, nor
271 restrictive of general words and phrases granting powers, but shall be held to be in
272 addition to such powers unless expressly prohibited to municipalities under the
273 Constitution or applicable laws of the State of Georgia.

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SECTION 1.13.

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General police powers.

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The mayor and council shall have full power and authority to pass, enact, and adopt any and all ordinances they deem necessary to protect the peace, comfort, health, prosperity, and security of the city and its inhabitants, to foster good morals and virtues in said city, and to suppress any and all acts against the peace and good order.

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SECTION 1.14.

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Fire protection.

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The mayor and council shall have full power and authority to provide for fire protection, to organize, operate, maintain, and equip a fire department, either paid or volunteer, and to provide such buildings as necessary to house the same and to make, enact, pass, and adopt such ordinances, rules, and regulations necessary to promote the protection of the inhabitants of the city against fire or fire hazards. To condemn buildings and cause their removal when they become or are likely to become a fire hazard or fire trap or where such buildings endanger by being or becoming a fire hazard or fire trap. To pass, enact, and adopt such ordinances and procedures to enforce removal of such hazards and to promote the protection of all citizens from a fire hazard consistent with the laws of this state.

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SECTION 1.15.

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Inquiries and investigations.

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

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SECTION 1.16.

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Exercise of powers.

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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

303 no provision, such shall be carried into execution as provided by ordinance or as provided
 304 by pertinent laws of the State of Georgia.

305 **ARTICLE II**

306 **GOVERNMENT STRUCTURE**

307 **SECTION 2.10.**

308 Mayor and council; powers and duties of same.

309 (a) The mayor and council shall have full power and authority from time to time to make and
 310 establish, enact and pass, such ordinances, laws, rules, regulations, and orders as may seem
 311 right and proper, respecting all matters and things whatsoever that may by them be
 312 considered necessary or proper or incident to good government of the city and to the peace,
 313 security, health, happiness, welfare, protection or convenience of the inhabitants of said city,
 314 and for preserving the peace and good order and dignity of the city. The mayor and council
 315 shall have power to pass all ordinances, resolutions, rules, regulations, and orders as said
 316 mayor and council shall deem necessary to govern the city. The mayor and council shall
 317 have power and authority to suspend and remove all officers, agents, and employees of the
 318 city and to fix the amount of all salaries and other compensation and benefits of such
 319 officers, agents, and employees of said city.

320 (b) As the chief executive of the city, the mayor shall:

- 321 (1) See that all laws and ordinances of the city are faithfully executed;
- 322 (2) Supervise all officers, agencies, and employees of the city and all work of the city;
- 323 (3) Call special meetings of the city council as provided for in Section 2.20;
- 324 (4) Preside at all meetings of the city council;
- 325 (5) Be the head of the city for the purpose of service of process and for ceremonial
 326 purposes, and be the official spokesperson for the city and the chief advocate of policy;
- 327 (6) Have power to administer oaths and to take affidavits;
- 328 (7) Sign on behalf of the city all written contracts, ordinances, and other instruments
 329 which have been approved by the council in accordance with the provisions of this
 330 charter and the ordinances adopted pursuant thereto;
- 331 (8) Exercise all powers of the city administrator during all times in which said position
 332 is vacant and during all times when the city administrator has been suspended by action
 333 of the council as more specifically provided in Section 2.18; and
- 334 (9) Perform such other duties as may be required by law, this charter, or by ordinance.

335 (c) Members of the council shall attend all regular and special meetings of the council,
 336 faithfully and diligently look after the affairs of the city; and attentively perform such
 337 services as may be required on committees and otherwise. In addition, the council shall have

338 authority to enter into such contracts and obligations and to adopt such ordinances,
 339 resolutions, rules, and regulations not inconsistent with this charter, the Constitution, and the
 340 laws of the State of Georgia as it shall deem necessary, expedient, or helpful for the
 341 governance of the City of Cleveland and may provide for enforcement of such ordinances,
 342 resolutions, rules, and regulations by establishing the penalties for violations.

343 **SECTION 2.11.**

344 Compensation and expenses.

345 The mayor and councilmembers shall receive compensation and expenses for their services
 346 as set by ordinance.

347 **SECTION 2.12.**

348 Mayor; council; wards; election.

349 (a) The municipal government of the City of Cleveland shall be vested in a mayor and four
 350 councilmembers. The city council established shall in all respects be a successor to and
 351 continuation of the governing authority under prior law. The mayor and councilmembers
 352 shall be elected in the manner provided by general law and this charter.

353 (b) The four councilmembers shall be elected by the voters of the entire city. One
 354 councilmember shall be elected from each of the four wards of the city as delineated and
 355 described in this subsection, to wit:

356 Ward No. 1 shall consist of that territory embraced and lying South of the centerline of
 357 what is presently known as East Kytile Street and State Highway No. 115, and East of the
 358 centerline of what is presently known as the South Main Street and State Highway No.
 359 11, embraced in the corporate limits of said city.

360 Ward No. 2 shall consist of that territory embraced and lying West of the centerline of
 361 what is presently known as South Main Street and State Highway No. 11 and south of the
 362 centerline what is presently known as West Kytile Street and State Highway No. 115,
 363 embraced in the corporate limits of said city.

364 Ward No. 3 shall consist of that territory embraced and lying North of the centerline of
 365 what is presently known as West Kytile Street and State Highway No. 115 and West of
 366 the centerline of what is presently known as North Main Street and State Highway No.
 367 11, embraced in the corporate limits of said city. Said Ward No. 3 shall also include that
 368 part of the public square not included in the boundaries of any other ward.

369 Ward No. 4 shall consist of that territory embraced and lying East of the centerline of
 370 what is presently known as North Main Street and State Highway No. 11 and North of

371 the centerline of what is known as East Kytile Street and State Highway No. 115,
372 embraced in the corporate limits of said city.

373 (c) The mayor shall be elected by the qualified voters of the city from the city at large.

374 **SECTION 2.13.**

375 Mayor and councilmembers; terms; qualifications.

376 The mayor and councilmembers serving on the effective date of this charter shall serve until
377 the expiration of the terms for which each was elected. Their successors shall be elected at
378 the municipal election immediately preceding expiration of such term. The mayor and
379 members of the city council shall serve for terms of four years and until their respective
380 successors are elected and qualified. No person shall be eligible to serve as mayor or
381 councilmember unless that person shall have been a resident of the city for 12 months prior
382 to the date of election. The mayor and each councilmember shall continue to reside within
383 the city during the term for which elected and continue to be registered and qualified to vote
384 in municipal elections of this city and each councilmember shall continue to reside within
385 the ward that such member represents during that member's period of service. No person
386 shall be eligible to hold office of mayor or councilmember if convicted of any crime
387 involving moral turpitude. No person shall be eligible to hold the office of mayor or
388 councilmember until having passed his or her 21st birthday.

389 **SECTION 2.14.**

390 Organizational meeting; oath.

391 The city council shall hold an organizational meeting at its first meeting of the year in each
392 even-numbered year. The meeting shall be called to order by the city clerk and the oath of
393 office shall be administered to the newly elected councilmembers or mayor by a judicial
394 officer authorized to administer oaths and shall, to the extent that it comports with federal
395 and state law, be as follows:

396 "I, _____, do solemnly swear (or affirm) that I will truly and faithfully perform the
397 duties of the Office of Councilmember or Mayor, as applicable, for the City of Cleveland,
398 White County, Georgia, for the ensuing term and will enforce the provisions of the
399 Charter and all Ordinances made pursuant thereof to the best of my skill and ability,
400 without fear or favor.

401 I, _____, do swear (or affirm) that I am not the holder of any unaccounted for
402 public money due this state or any political subdivision or authority thereof; that I am not
403 the holder of any office of trust under the government of the United States, any other

404 state, or any foreign state which I am prohibited from holding by the laws of the State of
 405 Georgia; and that I am otherwise qualified to hold said office according to the
 406 Constitution of the United States and the Constitution and laws of the State of Georgia
 407 and that I will support the Constitution of the United States and this state."

408 **SECTION 2.15.**

409 City administrator; appointment; qualifications; compensation.

410 (a) The city council may appoint a city administrator for an indefinite term and shall set the
 411 administrator's compensation. The administrator shall be appointed solely on the basis of
 412 executive and administrative qualifications.

413 (b) Before taking office, the city administrator shall furnish a fidelity bond in the amount of
 414 \$100,000.00, conditioned upon the faithful performance of his or her duties, with a
 415 corporation licensed to do business in this state as a surety. Such bond shall be filed with the
 416 city clerk after being approved by the mayor and council. The cost of such bond shall be
 417 paid by the city from city funds.

418 **SECTION 2.16.**

419 Powers and duties of city administrator.

420 The city administrator, when duly appointed, and while acting as city administrator, shall be
 421 the chief administrative officer of the city. The administrator shall be responsible to the
 422 mayor and city council for the administration of all city affairs placed in the administrator's
 423 charge by or under this charter. The administrator shall:

424 (1) Appoint and, when the administrator deems it necessary for the good of the city,
 425 suspend or remove all city employees and administrative officers the administrator
 426 appoints, except as otherwise provided by law or personnel ordinances adopted pursuant
 427 to this charter. However, the mayor and council shall have the sole power and authority
 428 to appoint, suspend, supervise and remove, and to set the compensation of and benefits
 429 of the city attorney, judge of the municipal court, city clerk, fire chief, police chief,
 430 engineer, building inspector, ordinance enforcement officer, finance officer, and all
 431 department heads, and all members of boards, commissions, and authorities that the
 432 mayor and council have created or shall create or of which the city is a member. For the
 433 purposes of this section, a department head shall include, but not be limited to, the city
 434 solicitor and the municipal court public defender;

435 (2) Direct and supervise the administration of departments, offices, and agencies of the
 436 city, except as otherwise provided by this charter or by law;

- 437 (3) Attend all city council meetings except for closed meetings held for the purposes of
 438 deliberating on the appointment, discipline, or removal of the city administrator and have
 439 the right to take part in discussion but not vote;
- 440 (4) See that all laws, provisions of this charter, and acts of the city council, subject to
 441 enforcement by the administrator or by officers subject to the administrator's direction
 442 and supervision, are faithfully executed;
- 443 (5) Prepare and submit the annual operating budget and capital budget to the city
 444 council;
- 445 (6) Submit to the city council and make available to the public a complete report on the
 446 finances and administrative activities of the city as of the end of each fiscal year;
- 447 (7) Make such other reports as the city council may require concerning the operations
 448 of city departments, offices and agencies subject to the administrator's direction and
 449 supervision;
- 450 (8) Keep the city council fully advised as to the financial condition and future needs of
 451 the city, and make such recommendations to the city council concerning the affairs of the
 452 city as the administrator deems desirable and as the mayor and council may require; and
- 453 (9) Perform other such duties as are specified in this charter or as may be required by the
 454 city council.

455 **SECTION 2.17.**

456 Removal of city administrator.

457 The city council may suspend the administrator from office for a period not to exceed 45
 458 days, or remove from office the administrator, at any time and for any reason which the city
 459 council by affirmative vote of the majority may determine, upon such terms and conditions
 460 as the city council may determine.

461 **SECTION 2.18.**

462 Acting administrator.

- 463 (a) The council shall have the power to appoint the mayor to serve as acting administrator
 464 during the absence or disability of the administrator or during such time as the position of
 465 administrator is vacant, without limitation to the length of such appointment. For the purpose
 466 of this section, disability of the city administrator shall include being suspended from his or
 467 her duties by the mayor and council.
- 468 (b) During any period that the mayor is appointed as and serves as acting city administrator,
 469 the mayor shall continue to exercise all powers granted to him or her as mayor. The mayor

470 shall not be entitled to receive the salary of the city administrator for service as acting
471 administrator. In those instances in which the mayor has been appointed acting city
472 administrator, the mayor shall cease exercising the powers and duties of the city
473 administrator upon the earlier of: (i) appointment of a city administrator, or (ii) upon the
474 revocation of said acting city administrator's appointment by the council and appointment
475 of a councilmember.

476 (c) If, in the discretion of the council, the mayor is unable to fulfill the duties of the acting
477 administrator for any reason, the council shall have the power to appoint a councilmember
478 to serve as acting city administrator. Such councilmember shall continue to exercise all
479 powers granted to a councilmember during the period that he or she is serving as acting city
480 administrator. Said councilmember shall not be entitled to receive the salary of the
481 administrator while serving as acting administrator. The city councilmember shall cease
482 exercising the powers and duties of the city administrator upon the earlier of: (i) appointment
483 by the council of a city administrator, or (ii) upon the revocation of said acting city
484 administrator's appointment by the council and the appointment of another city
485 councilmember to serve as acting administrator.

486 (d) Any appointment of a city councilmember to serve as acting city administrator shall be
487 for a period not to exceed six months.

488 (e) The acting city administrator shall take the same oath as the city administrator but need
489 not furnish a fidelity bond.

490 (f) Any reference in this charter to the city administrator shall mean and include the acting
491 city administrator.

492 **SECTION 2.19.**

493 Mayor pro tem; selection; duties.

494 At its first meeting each year, by a majority vote, the city council shall elect a councilmember
495 to serve as mayor pro tem. The mayor pro tem shall preside at all meetings of the city
496 council when the mayor is absent. The city council by a majority vote shall elect a new
497 presiding officer from among its members for any period in which the mayor pro tem is
498 disabled, absent, or acting as mayor. Any such absence or disability shall be declared by
499 majority vote of all councilmembers. When serving as mayor, the mayor pro tem shall not
500 vote as a member of the council, except in order to break a tie.

501

SECTION 2.20.

502

Regular, special, and emergency meetings.

503 (a) The city council shall hold regular meetings at such times and places as shall be
504 prescribed by ordinance.

505 (b) Special meetings of the city council may be held on call of the mayor or three members
506 of the city council. Notice of such special meetings shall be served on all other members
507 personally, or by telephone personally, at least 24 hours in advance of the meeting. Such
508 notice to councilmembers shall not be required if the mayor and all councilmembers are
509 present when the special meeting is called. Such notice of any special meeting may be
510 waived by a councilmember in writing before or after such a meeting, and attendance at the
511 meeting shall also constitute a waiver of notice on any business transacted in such
512 councilmember's presence. Only the business stated in the call may be transacted at the
513 special meeting.

514 (c) When special circumstances occur and are so declared by the city council, it may hold
515 a meeting with less than 24 hours' notice with the consent of a majority of the
516 councilmembers then serving upon giving such notice of the meeting and subjects expected
517 to be considered at the meeting as is reasonable under the circumstances, including notice
518 to the county legal organ or a newspaper having a general circulation in the county at least
519 equal to that of the legal organ, in which event the reason for holding the meeting within 24
520 hours and the nature of the notice shall be recorded in the minutes. An emergency ordinance
521 shall be introduced in the form prescribed for ordinances generally, except that it shall be
522 plainly designated as an emergency ordinance and shall contain, after the enacting clause,
523 a declaration stating that an emergency exists, and describing the emergency in clear and
524 specific terms.

525 (d) All meetings of the city council shall be public to the extent required by law and notice
526 to the public of special meetings shall be made fully as is reasonably possible as provided by
527 Code Section 50-14-1 of the Official Code of Georgia Annotated, or other such applicable
528 laws as are or may hereafter be enacted.

529

SECTION 2.21.

530

Quorum; voting.

531 (a) Two councilmembers and the mayor (three persons), shall constitute a quorum. In the
532 event that the mayor is absent, a quorum shall consist of two councilmembers and the mayor
533 pro tem (three persons).

534 (b) The affirmative vote of at least two councilmembers and the mayor is required to
535 conduct official business, and in the absence of the mayor, the affirmative vote of two
536 councilmembers and the mayor pro tem is required to conduct business; provided, however,
537 that in the event of a vacancy on the council, the affirmative vote of a majority of the
538 remaining members of the council shall be sufficient to conduct business. Voting on the
539 adoption of ordinances shall be by voice vote and the vote shall be recorded in the minute
540 book or journal, but any councilmember shall have the right to request a roll call vote and
541 such vote shall be recorded in the minute book or journal. All votes required by state law to
542 be conducted by roll call must be so conducted and recorded.

543 (c) Under circumstances necessitated by emergency conditions involving public safety or
544 the preservation of property or public services, the council may meet by means of
545 teleconference so long as the notice required by Section 2.20 is provided and means are
546 afforded for the public to have simultaneous access to the teleconference meeting. On any
547 other occasion of a council meeting, and so long as a quorum is present in person, the mayor
548 or a councilmember may participate by teleconference if necessary due to reasons of health
549 or absence from the city so long as notice is provided and public access is provided. Absent
550 emergency conditions or the written opinion of a physician or other health professional that
551 reasons of health prevent the mayor's or a councilmember's physical presence, the mayor or
552 a councilmember shall not participate by teleconference pursuant to this subsection more
553 than twice in one calendar year.

554 (c) An abstention by any councilmember shall be noted on the record but shall not be
555 counted as an affirmative or negative vote.

556 **SECTION 2.22.**

557 Rules of procedure.

558 (a) The city council shall adopt its rules of procedure and order of business consistent with
559 the provisions of this charter. The council shall keep a book of minutes, or journal, of its
560 proceedings, which shall be a public record.

561 (b) The mayor shall have the power and authority to appoint committees made up of
562 councilmembers, city employees, and other persons serving the city at the pleasure of the
563 mayor and council, in any combination thereof, for the purpose of assisting the mayor in the
564 exercise of his or her duties as mayor and, in the event that the mayor is appointed as acting
565 city administrator, for the purpose of assisting the mayor while acting in such capacity. The
566 members of such committees shall serve at the pleasure of the mayor. The mayor shall have
567 the power to appoint new members to any committee at any time.

568

SECTION 2.23.

569

Ordinance form; procedures.

570 (a) Every proposed ordinance should be introduced in writing and in the form required for
571 final adoption. The enacting clause shall be "It is hereby ordained by the governing authority
572 of the City of Cleveland" and every ordinance shall so begin.

573 (b) An ordinance may be introduced by the mayor or any councilmember and be considered
574 at a regular or special meeting of the city council. Ordinances shall be considered and
575 adopted or rejected by the city council in accordance with the rules which it shall establish.
576 Upon the first introduction of any ordinance, the clerk shall as soon as possible distribute a
577 copy to the mayor and to each councilmember and shall file a reasonable number of copies
578 in the office of the clerk.

579

SECTION 2.24.

580

Action requiring an ordinance.

581 The city council shall provide in its rules of procedure those actions that require adoption of
582 an ordinance to have the force and effect of law and those actions that may be accomplished
583 by resolution.

584

SECTION 2.25.

585

Codes of technical regulations.

586 (a) The city council may adopt any standard code of technical regulations by reference
587 thereto in an adopting ordinance. The procedure and requirements governing such adopting
588 ordinance shall be as prescribed for ordinances generally except that: (1) the requirements
589 of Section 2.23(b) for distribution and filing of copies of the ordinance shall be construed to
590 include copies of any code of technical regulations, as well as the adopting ordinance;
591 provided, however, that the mayor and councilmembers may waive their right to
592 automatically receive copies of the technical regulations adopted by the city and instead elect
593 to receive from the clerk such copies of said technical regulations as each may individually
594 request from time to time; and (2) a copy of each adopted code of technical regulations, as
595 well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to
596 Section 2.27.

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

599

SECTION 2.26.

600

Voting by mayor and council; signing of ordinances; duties of clerk.

601 (a) The mayor shall not vote on any question except in case of a tie among the members of
602 the council casting votes. No ordinance or resolution adopted by the council shall become
603 effective until the same shall have been approved by the mayor, unless the mayor shall fail
604 within three days from its passage to file with the clerk of council his or her reasons for
605 refusing to approve said ordinance or resolution. Upon the mayor filing his or her reasons
606 for not approving the same, a meeting of the council shall be called for such time as may be
607 requested by a majority of the council at which the clerk shall read the order of the mayor
608 refusing to approve such ordinance or resolution. A majority of the council may pass the
609 ordinance or resolution without approval of the mayor. In the event that no special meeting
610 is called, the clerk shall read the order refusing to approve any ordinance or resolution at the
611 next regular meeting of the council, which may then pass the ordinance or resolution as
612 provided above.

613 (b) In all cases where an ordinance or resolution has been duly adopted by a majority vote
614 of the council or the mayor and council, and in all cases in which the mayor and council, by
615 majority vote, have resolved to act by ordinance or otherwise, it shall be the duty of the
616 mayor and all councilmembers to sign the ordinance, document, or instrument evidencing
617 such act so resolved upon.

618 (c) It shall be the duty of the city clerk to attest to the signatures of the mayor and
619 councilmembers and to affix the city seal thereto. If a councilmember abstains from voting,
620 said councilmember shall not be required to sign the ordinance, document or instrument, and
621 the clerk shall record such abstention.

622

SECTION 2.27.

623

Duties of clerk; signing; authenticating; recording; codification; printing.

624 (a) The clerk shall authenticate by the clerk's signature and record in full in a properly
625 indexed book kept for that purpose, all ordinances adopted by the council. The codification
626 maintained by such codification service with which the city may have contracted for
627 ordinance codification services shall be a permissible substitute for such properly indexed
628 book.

629 (b) The city council shall provide for the preparation of a general codification of all the
630 ordinances of the city having the force and effect of law. The general codification shall be
631 adopted by the city council by ordinance and shall be published promptly, together with all
632 amendments thereto and such codes of technical regulations and other rules and regulations

633 as the city council may specify. This compilation shall be known and cited officially as "The
 634 Code of the City of Cleveland, Georgia." Copies of the code shall be furnished to all officers,
 635 departments, and agencies of the city, and made available for purchase by the public at a
 636 reasonable price as fixed by the city council.

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

646 (d) The city may make the codification available by posting it on the Internet.

647 **SECTION 2.28.**

648 Conflicts of interest; holding other offices.

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

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

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

659 (3) Disclose confidential information, including information obtained at meetings which
 660 are closed pursuant to Title 50, Chapter 14 of the Official Code of Georgia Annotated,
 661 concerning the property, government, or affairs of the governmental body by which the
 662 official is engaged without proper legal authorization; or use such information to advance
 663 the financial or other private interest of the official or others;

664 (4) Accept any valuable gift, whether in the form of service, loan, thing, or promise,
 665 from any person, firm or corporation which to the official's knowledge is interested,
 666 directly or indirectly, in any manner whatsoever, in business dealings with the
 667 governmental body by which the official is engaged; provided, however, that an elected

668 official who is a candidate for public office may accept campaign contributions and
669 services in connection with any such campaign;

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

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

674 (b) Disclosure - Any elected official, appointed officer, or employee who shall have any
675 financial interest, directly or indirectly, in any contract or matter pending before or within
676 any department of the city shall disclose such interest to the city council. The mayor or any
677 councilmember who has a financial interest in any matter pending before the city council
678 shall disclose such interest and such disclosure shall be entered on the records of the city
679 council, and that official shall disqualify himself or herself from participating in any decision
680 or vote relating thereto. Any elected official, appointed officer, or employee of any agency
681 or political entity to which this charter applies who shall have any financial interest, directly
682 or indirectly, in any contract or matter pending before or within such entity shall disclose
683 such interest to the governing body of such agency or entity.

684 (c) Use of Public Property - No elected official, appointed officer, or employee of the city
685 or any agency or entity to which this charter applies shall use property owned by such
686 governmental entity for personal benefit or profit but shall use such property only in their
687 capacity as an officer or employee of the city.

688 (d) Contracts Voidable and Rescindable - Any material violation of this section which
689 occurs with the knowledge, express or implied, of an elected official, officer, or employee
690 of the city who is a party to a contract with the city shall render said contract voidable at the
691 option of the city council.

692 (e) Ineligibility of Elected Official - Except where authorized by law, neither the mayor nor
693 any councilmember shall hold any other elective or appointive office in the city or otherwise
694 be employed by said government or any agency thereof during the term for which that
695 official was elected. No former mayor and no former councilmember shall hold any
696 appointive office in the city until one year after the expiration of the term for which that
697 official was elected.

698 (f) Political Activities of Certain Officers and Employees - No appointive officer of the city
699 shall continue in such employment upon qualifying as a candidate for nomination or election
700 to any public office. No employee of the city shall continue in such employment upon
701 qualifying for or election to any public office in this city or any other public office which is
702 inconsistent, incompatible, or in conflict with the duties of the city employee. Such
703 determination shall be made by the mayor and council either immediately upon election or
704 at any time such conflict may arise.

705

ARTICLE III

706

ADMINISTRATIVE AFFAIRS

707

SECTION 3.10.

708

Administrative and service departments.

709 (a) Except as otherwise provided in this charter, the mayor and council, by ordinance, shall
 710 prescribe the functions and duties, and establish, abolish, alter, consolidate or leave vacant
 711 all nonelective offices, positions of employment, departments, and agencies of the city, as
 712 necessary for the proper administration of the affairs and government of this city.

713 (b) The mayor and council shall have sole power and authority to appoint, suspend,
 714 supervise, remove, and to set the compensation of and the benefits of the city attorney, judge
 715 of the municipal court, city solicitor, and public defender of the municipal court, city clerk,
 716 finance officer, chief of police, fire chief, public works director, engineer, building inspector,
 717 ordinance enforcement officer, and all department heads, and all members of boards,
 718 commissions, and authorities that the mayor and council have created, or shall create, or of
 719 which the city is a member.

720 (c) Except as otherwise provided by this charter or by law, the directors of departments and
 721 other appointed officers of the city shall be appointed solely on the basis of their respective
 722 administrative and professional qualifications. The city administrator shall not appoint,
 723 suspend, or remove any city government department head without the prior approval of the
 724 mayor and council. For the purpose of this section, a department head shall exclude those
 725 positions specified in subsection (b) of this section.

726 (d) All appointive officers and directors of departments shall receive such compensation as
 727 set by the mayor and council.

728 (e) There shall be a director of each department or agency who shall be its principal officer.
 729 Except as noted in subsection (c) of this section, each department director shall, subject to
 730 the direction and supervision of the city administrator, be responsible for the administration
 731 and direction of the affairs and operations of that director's department or agency.

732 (f) All persons under the supervision of the city administrator, excluding those persons (legal
 733 or natural) which are identified in subsection (b) of this section, shall be nominated by the
 734 city administrator with confirmation of appointment by the city council. If the administrator
 735 or acting administrator fails to make a nomination for a vacant position, the council shall be
 736 authorized to select such officers or directors. All appointive officers, excluding those
 737 persons (legal or natural) which are identified in subsection (b) of this section, shall be
 738 employees at-will and subject to removal or suspension at any time by the city administrator
 739 unless otherwise determined by the mayor and city council. Those persons, legal or natural,
 740 who are identified in subsection (b) of this section shall serve at the pleasure of the mayor

741 and council and be deemed employees at-will, unless otherwise provided in written
 742 agreements between such persons and the mayor and council. Said city administrator shall
 743 serve at the pleasure of the mayor and council and be deemed an employee at-will unless
 744 otherwise provided in a written agreements between said city administrator and said mayor
 745 and council.

746 (g) The mayor and council may from time to time adopt ordinances which authorize the city
 747 administrator to appoint, suspend, supervise, remove, set the compensation of, or set the
 748 benefits of (or any combination of such actions), the following: the city attorney, judge of
 749 the municipal court, city clerk, fire chief, police chief, engineer, building inspector, ordinance
 750 enforcement officer, finance officer, city solicitor, municipal court public defender, and all
 751 department heads, and all members of boards, commissions, and authorities that the mayor
 752 and council may have created, shall create, or of which the city is a member (or any
 753 combination thereof) for such limited periods of time which said mayor and council may
 754 determine; and the mayor and council may from time to time adopt ordinances withdrawing
 755 any and all such authorizations given to said city administrator.

756 **SECTION 3.11.**

757 Boards, commissions, and authorities.

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

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

766 (c) The mayor and council, by ordinance, may provide for the compensation and
 767 reimbursement for actual and necessary expenses of the members of any board, commission
 768 or authority.

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

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

774 (f) No member of a board, commission or authority shall assume office until that person has
 775 executed and filed with the clerk of the city an oath obligating such member to faithfully and

776 impartially perform the duties of that member's office, such oath to be prescribed by
777 ordinance and administered by the mayor.

778 (g) All board members serve at-will and may be removed at any time by a vote of the city
779 council unless otherwise provided by law. The number of votes required to remove a board
780 member shall be set by ordinance.

781 (h) Except as otherwise provided by this charter or by law, each board, commission or
782 authority of the city shall elect one of its members as chair and one member as vice-chair,
783 and may elect as its secretary one of its own members or may appoint as secretary an
784 employee of the city. Each board, commission or authority of the city government may
785 establish such bylaws, rules and regulations, not inconsistent with this charter, ordinances
786 of the city, or law, as it deems appropriate and necessary for the fulfillment of its duties or
787 the conduct of its affairs. Copies of such bylaws, rules and regulations shall be filed with the
788 clerk of the city.

789
790
791
792

ARTICLE IV
ELECTIONS AND REMOVAL
SECTION 4.10.
Applicability of general law.

793 All primaries and elections shall be held and conducted in accordance with the Georgia
794 Election Code (Title 21, Chapter 2 of the Official Code of Georgia Annotated) as now or
795 hereafter amended.

796
797

SECTION 4.11.
Election of the city council and mayor.

798 (a) There shall be a municipal general election biennially in odd-numbered years on the
799 Tuesday next following the first Monday in November.

800 (b) The mayor and two councilmembers shall be elected at one election and every four years
801 thereafter. The remaining two city council seats shall be elected at the election alternating
802 with the first election and every four years thereafter so that a continuing body is created.
803 Terms shall be for four years.

804 (c) The city council shall set and publish a qualifying fee for the offices of mayor and
805 councilmember according to state law, of 3 percent of the total gross salary including all
806 supplements authorized by law.

807 **SECTION 4.12.**

808 Non-partisan elections.

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

811 **SECTION 4.13.**

812 Vacancy; filling of vacancies.

813 (a) Vacancies - The office of mayor and the office of any councilmember shall become
 814 vacant upon the incumbent's death, resignation, forfeiture of office, or removal from office.

815 (b) Filling of Vacancies - A vacancy in the office of mayor or councilmember shall be filled
 816 for the remainder of the unexpired term, if any, by appointment by the city council or those
 817 members remaining if less than six months remains in the unexpired term. If such vacancy
 818 occurs six months or more prior to the expiration of the term of that office, it shall be filled
 819 for the remainder of the unexpired term by a special election, in accordance with Titles 21
 820 and 45 of the Official Code of Georgia Annotated, or other such laws as are or may hereafter
 821 be enacted.

822 (c) This provision shall also apply to a temporary vacancy created by the suspension from
 823 office of the mayor or any councilmember.

824 **ARTICLE V**825 **ADMINISTRATIVE OFFICERS**826 **SECTION 5.10.**

827 City clerk.

828 (a) The mayor and city council shall appoint a city clerk and treasurer who shall not be a
 829 councilmember. The city clerk shall be custodian of the official city seal and city records;
 830 maintain city council records required by this charter; and perform such other duties as may
 831 be required by the city council.

832 (b) In addition to such duties as may be prescribed by the mayor and council or otherwise
 833 described in this charter, it shall be the duty of the clerk to attend all meetings of the council,
 834 keep a careful and accurate record of its proceedings, carefully collect all revenues due the
 835 city except such as the ordinances require to be collected by some other officer, and to
 836 faithfully account for the same, furnish to the mayor and council and the city administrator
 837 such information as may be requested by any of them, and open his or her books at any time
 838 to any citizen of the city requesting to see the same.

839 **SECTION 5.11.**

840 City attorney.

841 (a) The city council shall appoint a city attorney and shall provide for the payment of such
 842 attorney for services rendered to the city. The city attorney shall be responsible for providing
 843 for the representation and defense of the city in all litigation in which the city is a party; shall
 844 review such ordinances as may be required by the council; may be the prosecuting officer
 845 in the municipal court when requested by the mayor or directed by the council; shall attend
 846 the meetings of the council as directed; shall advise the city council, mayor, and other
 847 officers and employees of the city concerning legal aspects of the city's affairs; and shall
 848 perform such other duties as may be required by virtue of the person's position as city
 849 attorney.

850 (b) The city attorney is not a public official of the city and does not take an oath of office.
 851 The city attorney shall at all times be an independent contractor. The city attorney shall
 852 serve at the pleasure of the city council. A law firm, rather than an individual, may be
 853 designated as the city attorney.

854 **SECTION 5.12.**

855 Removal of elected officers.

856 Should the mayor or any member of the council be guilty of malpractice in office, willful
 857 neglect of office, or abuse of the power conferred on such officer, or guilty of any other
 858 conduct unbecoming such an officer of the City of Cleveland, such officer shall be subject
 859 to impeachment by the mayor and council, and upon conviction, shall be removed from
 860 office.

861 **SECTION 5.13.**

862 Bonds for officials.

863 The officers and employees of this city, both elective and appointive, shall execute such
 864 surety or fidelity bonds in such amounts and upon such terms and conditions as the city
 865 council shall from time to time require by ordinance or as may be provided by law. The cost
 866 of the bond for any officer or employee of the city shall be paid by the city, from city funds.

895 **SECTION 7.12.**

896 Convening.

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

898 **SECTION 7.13.**

899 Jurisdiction; powers.

900 (a) The municipal court shall have jurisdiction and authority to try and punish violations of
901 this charter, all city ordinances, and such other violations as provided by law.902 (b) The municipal court shall have authority to punish those in its presence for contempt,
903 provided that such punishment shall not exceed ten days in jail and a fine as authorized by
904 law.905 (c) The municipal court may fix punishment for offenses within its jurisdiction not
906 exceeding a fine of \$1,000.00 or imprisonment for 180 days or both such fine and
907 imprisonment or may fix punishment by fine, imprisonment or alternative sentencing as now
908 or hereafter provided by law.909 (d) The municipal court shall have authority to establish a schedule of fees to defray the cost
910 of operation, and shall be entitled to reimbursement of the cost of meals, transportation, and
911 caretaking of prisoners bound over to superior courts for violations of state law.912 (e) The municipal court shall have authority to establish bail and recognizances to ensure
913 the presence of those charged with violations before said court, and shall have discretionary
914 authority to accept cash or personal or real property as surety for the appearance of persons
915 charged with violations. Whenever any person shall give bail for that person's appearance
916 and shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge
917 presiding at such time, and an execution issued thereon by serving the defendant and the
918 defendant's sureties with a rule nisi, at least two days before a hearing on the rule nisi. In the
919 event that cash or property is accepted in lieu of bond for security for the appearance of a
920 defendant at trial, and if such defendant fails to appear at the time and place fixed for trial,
921 the cash so deposited shall be on order of the judge declared forfeited to the city, or the
922 property so deposited shall have a lien against it for the value forfeited which lien shall be
923 enforceable in the same manner and to the same extent as a lien for city property taxes.924 (f) The municipal court shall have the same authority as superior courts to compel the
925 production of evidence in the possession of any party; to enforce obedience to its orders,
926 judgments and sentences; and to administer such oaths as are necessary.

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

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

934 **SECTION 7.14.**

935 Rules for court.

936 With the approval of the city council, the judge shall have full power and authority to make
 937 reasonable rules and regulations necessary and proper to secure the efficient and successful
 938 administration of the municipal court; provided, however, that the city council may adopt in
 939 part or in toto the rules and regulations applicable to municipal courts. The rules and
 940 regulations made or adopted shall be filed with the city clerk and shall be available for public
 941 inspection.

942 **SECTION 7.15.**

943 Certiorari.

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

948 **ARTICLE VIII**

949 **FINANCE**

950 **SECTION 8.10.**

951 Property tax.

952 (a) All persons and corporations owning property in the City of Cleveland shall be required
 953 to make a return under oath, annually, to the board of tax assessors of said city, of all their
 954 property, real and personal, subject to taxation by said city, as of the first day of January of
 955 each year; and the books for recording the same shall be opened on the first day of January
 956 and closed on the first day of April of each year. Said property shall be returned by the

957 property owner or his or her authorized agent, on blanks furnished for the purpose, at the fair
958 market value thereof.

959 (b) The city council may assess, levy, and collect an ad valorem tax on all real and personal
960 property within the corporate limits of the city that is subject to such taxation by the state and
961 county. This tax is for the purpose of raising revenues to defray the costs of operating the
962 city government, of providing governmental services, for the repayment of principal and
963 interest on general obligations, and for any other public purpose as determined by the city
964 council in its discretion.

965 **SECTION 8.11.**

966 Millage rate; due dates; payment methods.

967 The city council, by ordinance, shall establish a millage rate for the city property tax, a due
968 date, and the time period within which these taxes must be paid.

969 **SECTION 8.12.**

970 Collection of delinquent taxes and fees.

971 The city council, by ordinance, may provide generally for the collection of delinquent taxes,
972 fees, or other revenue due the city by whatever reasonable means as are not precluded by
973 law. This shall include providing for the dates when the taxes or fees are due; late penalties
974 or interest; issuance and execution of fi.fa.'s; creation and priority of liens; making delinquent
975 taxes and fees personal debts of the persons required to pay the taxes or fees imposed;
976 revoking city permits for failure to pay any city taxes or fees; and providing for the
977 assignment or transfer of tax executions.

978 **SECTION 8.13.**

979 Authority to contract with tax commissioner and county board of assessors.

980 The city council may contract with the Tax Commissioner of White County for preparation
981 of the municipal tax digest, assessment and collection of municipal taxes, and for collection
982 of delinquent municipal taxes as authorized in general law. The city may contract with the
983 White County Board of Assessors in lieu of maintaining its own board of assessors.

984 **SECTION 8.14.**

985 Occupation and business taxes.

986 The city council by ordinance shall have the power to levy such occupation or business taxes
987 as are not denied by law. The city council may classify businesses, occupations or
988 professions for the purpose of such taxation in any way which may be lawful and may
989 compel the payment of such taxes as provided in Section 8.12.

990 **SECTION 8.15.**

991 Regulatory fees; permits.

992 The city council by ordinance shall have the power to require businesses or practitioners
993 doing business within this city to obtain a permit for such activity from the city and pay a
994 reasonable regulatory fee for such permit as provided by general law. Such fees shall reflect
995 the total cost to the city of regulating the activity, and if unpaid, shall be collected as
996 provided in Section 8.12.

997 **SECTION 8.16.**

998 Franchises.

999 (a) The city council shall have the power to grant franchises for the use of this city's streets
1000 and alleys for the purposes of railroads, street railways, telephone companies, electric
1001 companies, electric membership corporations, cable television and other telecommunications
1002 companies, gas companies, transportation companies and other similar organizations. The
1003 city council shall determine the duration, terms, whether the same shall be exclusive or
1004 nonexclusive, and the consideration for such franchises; provided, however, no franchise
1005 shall be granted for a period in excess of 35 years and no franchise shall be granted unless
1006 the city receives just and adequate compensation therefor. The city council shall provide for
1007 the registration of all franchises with the city clerk. The city council may provide by
1008 ordinance for the registration within a reasonable time of all franchises previously granted.
1009 (b) If no franchise agreement is in effect, the city council has the authority to impose a tax
1010 on gross receipts for the use of this city's streets and alleys for the purposes of railroads,
1011 street railways, telephone companies, electric companies, electric membership corporations,
1012 cable television and other telecommunications companies, gas companies, transportation
1013 companies and other similar organizations.

SECTION 8.17.

Service charges.

1016 The city council by ordinance shall have the power to assess and collect fees, charges,
1017 assessments, and tolls for sewers, sanitary and health services, or any other services provided
1018 or made available within and without the corporate limits of the city. If unpaid, such charges
1019 shall be collected as provided in Section 8.12. The authority to collect fees provided in this
1020 section is in addition to and not in limitation of any authority granted by this charter for
1021 collection of fees.

SECTION 8.18.

Special assessments.

1024 The city council by ordinance shall have the power to assess and collect the cost of
1025 constructing, reconstructing, widening, or improving any public way, street, sidewalk,
1026 curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property
1027 owners. If unpaid, such charges shall be collected as provided in Section 8.12. The authority
1028 to collect assessments provided in this section is in addition to and not in limitation of any
1029 other authority granted by this charter for collection of such charges.

SECTION 8.19.

Construction; other taxes and fees.

1032 This city shall be empowered to levy any other tax or fee allowed now or hereafter by law,
1033 and the specific mention of any right, power or authority in this article shall not be construed
1034 as limiting in any way the general powers of this city to govern its local affairs.

SECTION 8.20.

General obligation bonds.

1037 The city council shall have the power to issue bonds for the purpose of raising revenue to
1038 carry out any project, program, or venture authorized under this charter or the laws of the
1039 state. Such bonding authority shall be exercised in accordance with the laws governing bond
1040 issuance by municipalities in effect at the time said issue is undertaken.

SECTION 8.21.

Revenue bonds.

1043 (a) Revenue bonds may be issued by the city council as state law now or hereafter provides.
 1044 Such bonds are to be paid out of any revenue produced by the project, program, or venture
 1045 for which they were issued.

1046 (b) The mayor and council shall have full power and authority to acquire, construct,
 1047 reconstruct, improve and extend revenue-producing projects, systems, to maintain and
 1048 operate the same, to prescribe, revise, fix and collect rates, fees, tolls and charges for
 1049 services, facilities and commodities furnished thereby and, in anticipation of the collection
 1050 of revenues, to finance the cost of construction and operation of the same and to exercise all
 1051 the powers and authorities authorized by Article 3 of Chapter 82 of Title 36 of the Official
 1052 Code of Georgia Annotated, the "Revenue Bond Law."

SECTION 8.22.

Short-term loans.

1055 The city may obtain short-term loans and must repay such loans not later than December 31
 1056 of each year, unless otherwise provided by law.

SECTION 8.23.

Lease-purchase contracts.

1059 The city may enter into multiyear lease, purchase, or lease purchase contracts for the
 1060 acquisition of goods, materials, real and personal property, services, and supplies provided
 1061 the contract terminates without further obligation on the part of the municipality at the close
 1062 of the calendar year in which it was executed and at the close of each succeeding calendar
 1063 year for which it may be renewed. Contracts must be executed in accordance with the
 1064 requirements of Code Section 36-60-13 of the Official Code of Georgia Annotated, or other
 1065 such applicable laws as are or may hereafter be enacted.

SECTION 8.24.

Fiscal year.

1068 The city council shall set the fiscal year by ordinance. This fiscal year shall constitute the
 1069 budget year and the year for financial accounting and reporting of each and every office,

1070 department, agency and activity of the city government unless otherwise provided by state
1071 or federal law.

1072 **SECTION 8.25.**

1073 Preparation of budgets.

1074 The city council shall provide an ordinance on the procedures and requirements for the
1075 preparation and execution of an annual operating budget, a capital improvements plan and
1076 a capital budget, including requirements as to the scope, content and form of such budgets
1077 and plans.

1078 **SECTION 8.26.**

1079 Submission of operating budget to city council.

1080 On or before a date fixed by the city council but not later than 30 days prior to the beginning
1081 of each fiscal year, the city administrator shall submit to the city council a proposed
1082 operating budget for the ensuing fiscal year. The budget shall be accompanied by a message
1083 from the city administrator containing a statement of the general fiscal policies of the city,
1084 the important features of the budget, explanations of major changes recommended for the
1085 next fiscal year, a general summary of the budget, and such other pertinent comments and
1086 information. The operating budget and the capital budget hereinafter provided for, the
1087 budget message, and all supporting documents shall be filed in the office of the city clerk and
1088 shall be open to public inspection.

1089 **SECTION 8.27.**

1090 Action by city council on budget.

1091 (a) The city council may amend the operating budget proposed by the city administrator;
1092 except, that the budget as finally amended and adopted must provide for all expenditures
1093 required by state law or by other provisions of this charter and for all debt service
1094 requirements for the ensuing fiscal year, and the total appropriations from any fund shall not
1095 exceed the estimated fund balance, reserves, and revenues.

1096 (b) The city council by ordinance shall adopt the final operating budget for the ensuing fiscal
1097 year not later than the 30th day of June of each year. If the city council fails to adopt the
1098 budget by this date, the amounts appropriated for operation for the current fiscal year shall
1099 be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items
1100 prorated accordingly until such time as the city council adopts a budget for the ensuing fiscal

1101 year. Adoption of the budget shall take the form of an appropriations ordinance setting out
 1102 the estimated revenues in detail by sources and making appropriations according to fund and
 1103 by organizational unit, purpose, or activity as set out in the budget preparation ordinance
 1104 adopted pursuant to Section 8.25.

1105 (c) The amount set out in the adopted operating budget for each organizational unit shall
 1106 constitute the annual appropriation for such, and no expenditure shall be made or
 1107 encumbrance created in excess of the otherwise unencumbered balance of the appropriations
 1108 or allotment thereof, to which it is chargeable.

1109 (d) Nothing contained in this section shall preclude the city from amending its budget so as
 1110 to adapt to changing governmental needs during the budget period.

1111 **SECTION 8.28.**

1112 Tax levies.

1113 The city council shall levy by ordinance such taxes as the city council considers as
 1114 appropriate and necessary to conduct the business and governance of the city. The taxes and
 1115 tax rates set by such ordinances shall be such that reasonable estimates of revenues from such
 1116 levy shall at least be sufficient, together with other anticipated revenues, fund balances and
 1117 applicable reserves, to equal the total amount appropriated for each of the several funds set
 1118 forth in the annual operating budget for defraying the expenses of the general government
 1119 of this city.

1120 **SECTION 8.29.**

1121 Changes in appropriations.

1122 The city council by ordinance may make changes in the appropriations contained in the
 1123 current operating budget, at any regular meeting, special or emergency meeting called for
 1124 such purpose.

1125 **SECTION 8.30.**

1126 Capital budget.

1127 (a) On or before the date fixed by the city council but no later than 30 days prior to the
 1128 beginning of each fiscal year, the city administrator shall submit to the city council a
 1129 proposed capital improvements plan with a recommended capital budget containing the
 1130 means of financing the improvements proposed for the ensuing fiscal year. The city council
 1131 shall have power to accept, with or without amendments, or reject the proposed plan and

1132 proposed budget. The city council shall not authorize an expenditure for the construction of
 1133 any building, structure, work or improvement, unless the appropriations for such project are
 1134 included in the capital budget, except to meet a public emergency as provided in Section
 1135 2.20.

1136 (b) The city council shall adopt by ordinance the final capital budget for the ensuing fiscal
 1137 year not later than the 30th day of June of each year. No appropriation provided for in a prior
 1138 capital budget shall lapse until the purpose for which the appropriation was made shall have
 1139 been accomplished or abandoned; provided, however, the city administrator may submit
 1140 amendments to the capital budget at any time during the fiscal year, accompanied by
 1141 recommendations. Any such amendments to the capital budget shall become effective only
 1142 upon adoption by ordinance.

1143 **SECTION 8.31.**

1144 Independent audit.

1145 There shall be an annual independent audit of all city accounts, funds and financial
 1146 transactions by a certified public accountant selected by the city council. The audit shall be
 1147 conducted according to generally accepted auditing principles. Any audit of any funds by
 1148 the state or federal governments may be accepted as satisfying the requirements of this
 1149 charter. Copies of annual audit reports shall be available to the public, upon payment of such
 1150 costs as required by the Georgia Open Records Law, Code Section 50-18-70 et seq. of the
 1151 Official Code of Georgia Annotated.

1152 **SECTION 8.32.**

1153 Contracting procedures.

1154 No contract with the city shall be binding on the city unless:

1155 (a) it is in writing;

1156 (b) it is drawn by or submitted to and reviewed by the city attorney, and as a matter of
 1157 course, is signed by the city attorney to indicate such drafting or review; and

1158 (c) it is made or authorized by the city council and such approval is entered in the city
 1159 council minute book or journal of proceedings pursuant to Section 2.22.

SECTION 8.33.

1160

1161

Centralized purchasing.

1162 The city council may by ordinance establish procedures for a system of centralized
1163 purchasing for the city.

SECTION 8.34.

1164

1165

Sale and lease of city property.

1166 (a) The city council may sell, and convey, or lease, or grant easements and other rights in
1167 (or any combination thereof), any real, or personal, or mixed property, or any combination
1168 thereof owned or held by the city for governmental or other purposes as now or hereafter
1169 provided by law.

1170 (b) The city council may quitclaim any rights it may have in property not needed for public
1171 purposes upon report by the city administrator and adoption of a resolution, both finding that
1172 the property is not needed for public or other purposes and that the interest of the city has no
1173 readily ascertainable monetary value.

1174 (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place
1175 of the city, a small parcel or tract of land is cut off or separated by such work from a larger
1176 tract or boundary of land owned by the city, the city council may authorize the city
1177 administrator to sell and convey said cut-off or separated parcel or tract of land to an abutting
1178 or adjoining property owner or owners where such sale and conveyance facilitates the
1179 enjoyment of the highest and best use of the abutting owner's property. Such sales shall be
1180 in accordance with the terms of contracts between such land owners and the city in
1181 accordance with the terms authorized by the city council. Each abutting property owner shall
1182 be notified of the availability of the property and given the opportunity to purchase said
1183 property under such terms and conditions as set out by ordinance. All deeds and
1184 conveyances made in accordance with such contracts and so executed and delivered shall
1185 convey the interest set forth therein, notwithstanding the fact that no public sale after
1186 advertisement was made.

SECTION 8.35.

1187

1188

Sale of unneeded property.

1189 The mayor and council shall have power and authority to sell any property belonging to said
1190 city which shall have become unnecessary and useless for city purposes and to make good
1191 and sufficient title to the purchaser. The mayor and council shall pass a resolution and

1192 include a statement to such effect in the official minutes and may sell such property either
 1193 at public or private sale.

1194 **ARTICLE IX**

1195 **GENERAL PROVISIONS**

1196 **SECTION 9.10.**

1197 Prior ordinances.

1198 All ordinances, resolutions, rules, and regulations now in force in the city not inconsistent
 1199 with this charter are hereby declared valid and of full effect and force until amended or
 1200 repealed by the city council.

1201 **SECTION 9.11.**

1202 Existing personnel and officers.

1203 Except as specifically provided otherwise by this charter, all personnel and officers of the
 1204 city and their rights, privileges and powers shall continue beyond the time this charter takes
 1205 effect for a period of 90 days before or during which the existing city council shall pass a
 1206 transition ordinance detailing the changes in personnel and appointive officers required or
 1207 desired and arranging such titles, rights, privileges and powers as may be required or desired
 1208 to allow a reasonable transition.

1209 **SECTION 9.12.**

1210 Pending matters.

1211 Except as specifically provided otherwise by this charter, all rights, claims, actions, orders,
 1212 contracts, and legal or administrative proceedings shall continue and any such ongoing work
 1213 or cases shall be completed by such city agencies, personnel, or offices as may be provided
 1214 by the city council.

1215 **SECTION 9.13.**

1216 Construction.

1217 (a) Section captions in this charter are informative only and are not to be considered as a part
 1218 thereof.

1219 (b) The word "shall" is mandatory and the word "may" is permissive.

1220 (c) The singular shall include the plural, the masculine shall include the feminine, and vice
1221 versa.

1222 **SECTION 9.14.**

1223 Severability.

1224 If any article, section, subsection, paragraph, sentence, or part thereof of this charter shall be
1225 held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect
1226 or impair other parts of this charter unless it clearly appears that such other parts are wholly
1227 and necessarily dependent upon the part held to be invalid or unconstitutional, it being the
1228 legislative intent in enacting this charter that each article, section, subsection, paragraph,
1229 sentence, or part thereof be enacted separately and independent of each other.

1230 **SECTION 9.15.**

1231 Specific repealer.

1232 An Act incorporating the City of Cleveland in the County of White, approved February 25,
1233 1949 (Ga. L. 1949, p. 1024), is hereby repealed in its entirety and all amendatory acts thereto
1234 are likewise repealed in their entirety. All other laws and parts of laws in conflict with this
1235 charter are hereby repealed.

1236 **SECTION 9.16.**

1237 Effective date.

1238 This Act shall become effective upon the approval of this Act by the Governor and upon its
1239 becoming law without such approval.

1240 **SECTION 9.17.**

1241 General repealer.

1242 All laws and parts of laws in conflict with this Act are repealed.