

House Bill 629

By: Representatives Gregory of the 34<sup>th</sup>, Setzler of the 35<sup>th</sup>, Carson of the 46<sup>th</sup>, Cooper of the 43<sup>rd</sup>, Teasley of the 37<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To provide a new charter for the City of Kennesaw; to provide for reincorporation; to  
2 prescribe the corporate limits; to enumerate the corporate powers; to provide for the  
3 continuation of existing ordinances, bylaws, rules, and regulations; to provide for gender  
4 neutrality; to provide for the establishment of city government; to provide for the mayor,  
5 mayor pro tem, and councilmembers and their selection, oath, compensation, powers, duties,  
6 and terms of office; to provide for filling vacancies; to provide for a city clerk; to provide for  
7 legislation and ordinances; to provide for a city manager and city attorney; to provide for the  
8 fiscal administration of the government; to provide for the levy and collection of ad valorem  
9 taxes; to provide for elections; to provide for the qualification of candidates and electors; to  
10 provide for the method of conducting elections; to provide for the registration of voters; to  
11 provide for the establishment of a municipal court; to provide for the appointment of the  
12 municipal court judge; to provide for qualifications and compensation; to provide for the  
13 jurisdiction of the municipal court; to provide for appeals from the municipal court; to  
14 provide for the payment of court costs; to provide for rules for the municipal court; to  
15 provide for an effective date; to repeal specific laws; to repeal conflicting laws; and for other  
16 purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 ARTICLE I.  
19 CHARTER, CITY LIMITS, AND CORPORATE POWERS.  
20 SECTION 1.01.  
21 Reincorporation.

22 This Act shall constitute the whole charter of the City of Kennesaw, Georgia. The City of  
23 Kennesaw, Georgia, in the County of Cobb, and the inhabitants thereof, shall continue to be  
24 a body politic and corporate under the name and style of the "City of Kennesaw, Georgia,"  
25 and by that name shall have perpetual succession, may contract and be contracted with, may

26 sue and be sued, plead and be impleaded, in all the courts of law and equity, and in all actions  
 27 whatsoever, and may have and use a common seal and change it at its pleasure.

28 **SECTION 1.02.**

29 Corporate boundaries.

30 (a) The boundaries of this city shall be those existing on the effective date of the adoption  
 31 of this charter and any other property properly annexed under Georgia law.

32 (b) Alterations may be made from time to time in the manner provided by law. The  
 33 boundaries of this city at all times shall be shown on a map to be retained permanently in the  
 34 office of the city clerk and to be designated: "Official Map of the Corporate Limits of the  
 35 City of Kennesaw, Georgia." Photographic, typed, or other copies of such map certified by  
 36 the city clerk shall be admitted as evidence in all courts and shall have the same force and  
 37 effect as the original map.

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

41 **SECTION 1.03.**

42 Corporate powers.

43 The corporate powers of the city, to be exercised by the mayor and council, include the  
 44 following:

45 (a) To levy and to provide for the assessment, valuation, revaluation, and collection of taxes  
 46 on all property subject to taxation for state and county purposes and to contract with any city,  
 47 county, or other governmental and political subdivisions for the ministerial acts of billing and  
 48 collection of city ad valorem taxes, or other fees, assessments, or taxes, as the mayor and  
 49 council may by resolution authorize.

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

55 (c) To appropriate and borrow money, to provide for payment of the debts of the city, and  
 56 to authorize the expenditure of money for any municipal purpose, or for matters of national  
 57 or state interest, and to issue bonds for the purpose of raising revenue to carry out any  
 58 project, program, or venture authorized under this charter or the general laws of this state.

59 Such bonding authority shall be exercised in accordance with the laws governing bond issues  
60 by municipalities in effect at the time such issue is undertaken. Whenever the city shall  
61 desire to create a bonded debt for the purpose of carrying into effect any of the powers and  
62 provisions of this charter, it shall have the right and authority to do so when authorized by  
63 a majority of the qualified voters of the city voting in an election.

64 (d) To acquire, dispose of, and hold in trust or otherwise any real, personal, or mixed  
65 property, in fee simple or lesser interest, inside or outside the city.

66 (e) To condemn property, inside or outside of the corporate boundaries of the city, for  
67 present or future use, and for any corporate purpose deemed necessary by the mayor and  
68 council, utilizing procedures enumerated in the O.C.G.A., or such other applicable laws as  
69 are or may hereafter be enacted.

70 (f) To acquire, lease, construct, operate, distribute, sell, and dispose of public utilities,  
71 including but not limited to a waterworks system, sewerage system, natural gas system,  
72 electrical power system, storm-water management system, and a community antenna  
73 television system, both inside and outside the corporate limits, and any other public utility  
74 subject to the provisions of applicable general law. For water, gas, and electricity furnished,  
75 for storm-water utility and for all sewerage and sanitary service rendered, the city may  
76 prescribe the charges, rates, fares, fees, regulations, and standards and conditions of service  
77 to be provided, and shall have a lien against any property of the persons served; such lien to  
78 be enforceable in the same manner and with the same remedies as a lien for city property  
79 taxes.

80 (g) To grant franchises or make contracts for public utilities and public services but not  
81 limited to those stated above, not to exceed periods of 30 years. The mayor and council may  
82 prescribe the rates, fares, regulations, and standards and conditions of service applicable to  
83 the service to be provided by the franchise grantee or contractor, insofar as not in conflict  
84 with laws of the State of Georgia.

85 (h) To provide for the acquisition, construction, building, operation, and maintenance of  
86 public ways, parks, playgrounds, recreational facilities, public grounds, cemeteries, markets  
87 and market houses, public buildings, libraries, sewers, drains, sewerage treatment, airports,  
88 and hospitals; charitable, educational, recreational, conservation, sport, curative, correctional,  
89 detention, penal, and medical institutions, agencies, and facilities; any other public  
90 improvements, inside or outside the corporate boundaries of the city; and to regulate the use  
91 thereof; and for such purposes, property may be acquired by condemnation pursuant to the  
92 O.C.G.A. or such other applicable laws as are or may hereafter be enacted.

93 (i) To prescribe standards of health and sanitation and to provide for the enforcement of such  
94 standards.

95 (j) To provide for the collection and disposal of garbage, rubbish, and refuse and to provide  
96 power and authority to take all necessary and proper means for keeping the city limits free  
97 from garbage, trash, and filth. The city may contract with customers outside of city limits  
98 subject to valid intergovernmental agreement. Charges or fees may be imposed to cover the  
99 costs of such services, which if unpaid, shall constitute a debt which shall be subject to a lien  
100 against any property of persons served which shall be enforceable in the same manner, and  
101 under the same remedies, as a lien for city property taxes.

102 (k) To define, regulate, and prohibit any act, practice, conduct, or use of property which is  
103 detrimental or likely to be detrimental to the health, morals, safety, security, peace,  
104 convenience, or general welfare of inhabitants of the city.

105 (l) To define a nuisance in the city and to provide for its abatement. The municipal court  
106 judge of the city shall have jurisdiction of all nuisance abatement proceedings in the city.  
107 The city may provide by ordinance for any building, structure, or condition maintained in  
108 violation of any valid law of this state or any valid ordinance of the city, to be adjudged a  
109 nuisance and for its abatement at the owner's expense upon his or her failure or refusal to  
110 abate the same within ten days after written notice from the city to do so and after an  
111 opportunity to be heard on same.

112 (m) To establish minimum standards for, and to regulate the building, construction, and  
113 repair of electrical wiring and equipment, gas installation and equipment, plumbing, and  
114 housing for the health, sanitation, cleanliness, welfare, and safety of inhabitants of the city  
115 and to provide for the enforcement of such standards based on standards as outlined in the  
116 International Building Codes standards and other similar standards.

117 (n) To provide that persons given jail sentences in the municipal court may work out such  
118 sentences in any public works or on the public streets of the city to maintain public facilities  
119 and grounds as provided by ordinance; or the mayor and council may provide for the  
120 commitment of city prisoners to any county work camp or other governmental agency or jail  
121 by agreement with the appropriate county or governmental officers.

122 (o) To regulate, license, tax, or prohibit the keeping or running at large of animals and fowl  
123 and to provide for the impoundment of same, in violation of any ordinance or lawful orders,  
124 and to provide for their disposition by sale, gift, or humane destruction, when not redeemed  
125 as provided by ordinance to provide punishment for violation of ordinances enacted  
126 hereunder.

127 (p) To regulate and license vehicles operated for hire in the city; to limit the number of such  
128 vehicles; to require the operators thereof to be licensed; to require public liability insurance  
129 on such vehicles in amounts prescribed by ordinance; and to regulate and rent parking spaces  
130 in public ways for the use of such vehicles, or any other reasonable regulations as may be  
131 prescribed by ordinance.

- 132 (q) To levy and provide for the collection of special assessments to cover the cost for any  
133 public improvements.
- 134 (r) To provide that upon conviction for violation of any ordinance, rule, regulation, or order,  
135 the offender may be punished within limitations prescribed by the mayor and council in such  
136 ordinance, rule, regulation, or order but not exceeding the limitation prescribed by this  
137 charter or state law.
- 138 (s) To exercise and enjoy all other powers, functions, rights, privileges, and immunities  
139 necessary or desirable to promote or protect the safety, health, peace, security, good order,  
140 comfort, convenience, morals, and general welfare of the city and its inhabitants; and to  
141 exercise all implied powers necessary to carry into execution all powers granted in this  
142 charter as fully and completely as if such powers were fully enumerated herein; and to  
143 exercise all powers now or in the future authorized to be exercised by other municipal  
144 governments under the Constitution or general laws of the State of Georgia. No enumeration  
145 of particular powers in this Act shall be held to be exclusive of others, nor restrictive of  
146 general words and phrases granting powers; but shall be held to be in addition to such powers  
147 unless expressly prohibited to cities under the Constitution or applicable public acts of this  
148 state.
- 149 (t) To levy taxes and to make appropriations for the purpose of advertising the city and its  
150 advantages and resources so as to bring new capital and commercial and manufacturing and  
151 other enterprises into the city, and also to levy taxes and to make payment from the general  
152 revenues and funds of the city for the support of public hospitals and libraries, arboretums  
153 and museums.
- 154 (u) To regulate and control public streets, public alleys, and ways; and in the discretion of  
155 the mayor and council by ordinance to alter, open, or close public streets and public alleys  
156 and ways.
- 157 (v) To contract with any state department or agency or any other political subdivision for  
158 joint services or the exchange of services; and to contract with such agencies or subdivisions  
159 for the joint use of facilities or equipment; and to contract with any such agency or  
160 subdivision to perform any service or execute any project in which the municipality has an  
161 interest.
- 162 (w) To authorize the providing of surety bonds for employees, such bonds to be payable to  
163 the city, with premiums payable by the city, when necessary or proper.
- 164 (x) Internet Service Provider and Wireless (Wi-Fi) Internet Service Provider. The city shall  
165 have the power and authority to construct, acquire, own, hold, lease, sell, resell, build,  
166 maintain, operate, and contract for an Internet systems network in order to provide Internet  
167 services, including but not limited to wireless (Wi-Fi) Internet service and other associated  
168 and related technologies; to interconnect its system to community needs; to finance such

169 system, from time to time, through the issuance of revenue bonds as may be permitted by the  
 170 Constitution and laws of the State of Georgia or through public or private contracts or both;  
 171 to make any contract for and furnish the services of any such system to consumers within the  
 172 city limits or pursuant to intergovernmental agreement for locations outside the city limits;  
 173 and to recoup and defray the costs associated with providing such services through the  
 174 leasing, selling, or sponsoring of web space for advertisement purposes.

175 **SECTION 1.04.**

176 Continuation of existing ordinances.

177 All ordinances, resolutions, bylaws, rules, regulations, and acts now in force in the city, not  
 178 inconsistent with this charter, are hereby declared valid and of force until amended or  
 179 repealed by the mayor and council of the city.

180 **SECTION 1.05.**

181 Gender.

182 The masculine gender shall include the feminine and neuter.

183 **ARTICLE II.**

184 **CITY GOVERNMENT.**

185 **SECTION 2.01.**

186 Establishment of city government.

187 The corporate governmental powers of the City of Kennesaw shall be vested in a mayor and  
 188 five councilmembers to be known as the "Mayor and Council of the City of Kennesaw." The  
 189 mayor and council shall be elected at large by the qualified voters of the city and shall  
 190 exercise their powers in such manner as prescribed by this charter, the Constitution, and  
 191 applicable general laws of the State of Georgia, or if not prescribed, in such manner as  
 192 prescribed by the duly established ordinances of the City of Kennesaw.

193 **SECTION 2.02.**

194 Qualification for mayor and councilmembers.

195 To be eligible for the office of elected or appointed mayor or councilmember a person must  
 196 be at least 21 years of age and must meet the requirements of a qualified voter of the city as  
 197 described by state law, and must be a bona fide resident of the City of Kennesaw for one year

198 prior to election day, subject to all applicable state and federal laws. No person shall be  
199 qualified to hold the office of mayor or councilmember who shall have been convicted of a  
200 felony unless such person has received a full pardon and has had all rights of citizenship  
201 restored.

202 **SECTION 2.03.**

203 Election of mayor and councilmembers.

204 (a) The mayor and city councilmembers serving on the effective date of this charter shall  
205 continue to serve until the expiration of their terms of office and until their successors are  
206 duly elected and qualified as provided by law.

207 (b) The mayor and each city councilmember shall be elected at large by all city residents  
208 qualified to vote at city elections.

209 (c) On Tuesday next following the first Monday in November, 2015, and on said date  
210 quadrennially thereafter, an election shall be held for the position of mayor. The candidate  
211 receiving a plurality of the votes shall be declared elected as mayor.

212 (d)(1) Councilmembers shall be elected to one of the following posts: Post 1, Post 2, Post  
213 3, Post 4, or Post 5. None of the posts shall be tied to any geographical boundaries of or  
214 within the city.

215 (2) On the Tuesday next following the first Monday in November, 2013, and on said date  
216 quadrennially thereafter, an election shall be held for those councilmembers who are to  
217 serve as "Councilmember, Post No. 3," "Councilmember, Post No. 4," and  
218 "Councilmember, Post No. 5." The candidate for each post receiving a plurality of the votes  
219 cast shall be declared elected as councilmember for the post for which he or she qualified.

220 (3) On the Tuesday next following the first Monday in November, 2015, and on said date  
221 quadrennially thereafter, an election shall be held for those councilmembers who are to  
222 serve as "Councilmember, Post No. 1," and "Councilmember, Post No. 2." The candidate  
223 receiving a plurality of the votes shall be declared elected as councilmember for the post  
224 for which he or she qualified.

225 (e) Any person possessed with the qualifications as required by law may qualify for any  
226 council post or for mayor.

227 **SECTION 2.04.**

228 Terms of office.

229 Except as otherwise provided by law, the terms of office for mayor and councilmembers  
230 shall begin on the first regularly scheduled council meeting in January following their  
231 respective elections and shall continue for four years, or until their successors are elected and  
232 qualified.

233 **SECTION 2.05.**

234 City council.

235 (a) The governing body of the city shall be composed of a mayor and five councilmembers,  
236 in which is vested all corporate, legislative, and other powers of the city, except as otherwise  
237 provided in this charter. The mayor and council shall hold regular public meetings at a stated  
238 time and place as provided by ordinance.

239 (b) Special meetings of the city council may be held on call of the mayor or mayor pro tem  
240 and two members of the city council. It shall be the duty of the clerk, deputy clerk, and/or  
241 the city manager to present, personally, in writing, by telephone, or by electronic  
242 communication, such notice of a special meeting at least 24 hours in advance of the meeting.  
243 Such notice to councilmembers shall not be required if the mayor and all councilmembers  
244 are present when the special meeting is called. Such notice of any special meeting may be  
245 waived by a councilmember in writing before or after such a meeting and attendance at the  
246 meeting shall also constitute a waiver of notice on any business transacted in  
247 councilmembers' presence. Only the business stated in the written call or stated as being the  
248 purpose in the oath or affidavit required in special sessions convened under the telephone  
249 notice provision of this charter may be transacted at a special meeting, except by unanimous  
250 consent of all members of the council.

251 (c) All meetings of the council and of the committees and of every agency, board,  
252 commission, and authority, or similar body of the city, shall be public in the same manner  
253 and to the same extent as required by Chapter 14 of Title 50 of the O.C.G.A., relating to open  
254 and public meetings, as it now exists or may hereafter be amended. Any person shall have  
255 access to the minutes and records thereof at reasonable times in the same manner and to the  
256 same extent as required by Article 4 of Chapter 18 of Title 50 of the O.C.G.A., relating to  
257 inspection of public records, as it now exists or may hereafter be amended.

258 (d) Four members of the governing body of the city shall constitute a quorum.

259 (e) The mayor and council shall exercise their powers in public meetings. The mayor and  
260 council may by ordinance adopt rules and bylaws to govern the conduct of its business,

261 including procedures and penalties for compelling the attendance of absent members. The  
 262 mayor and council may provide by ordinance for punishment of contemptuous behavior  
 263 conducted in its presence.

264 **SECTION 2.06.**

265 Mayor as presiding officer; additional powers.

266 The mayor shall preside at meetings of the council; shall have a vote only in the case of a tie  
 267 vote by councilmembers; shall have veto power, and shall have five business days after the  
 268 meeting with the council in which to file with the clerk, in writing, his or her dissent, but the  
 269 council may, at the same meeting or at the next regularly scheduled meeting of the mayor  
 270 and council, pass any such ordinance, order, or resolution, notwithstanding the veto, by a  
 271 vote of four-fifths of the total number of councilmembers, to be taken by ayes and nays, and  
 272 entered upon the minutes. The mayor shall be the chief executive officer of the city and shall  
 273 have the authority to appoint councilmembers to advise the various departments of the city  
 274 through the direction of the city manager; provided, however, that each councilmember shall  
 275 be appointed chairperson of one of the following divisions of operation: general and  
 276 administrative, police, public works, information technology, parks and recreation,  
 277 community development, museum and preservation services, and 911 communications. The  
 278 purpose of these designations shall be to provide input and review of policy issues and  
 279 implementation of programs and policies. The mayor shall sign ordinances and resolutions  
 280 on their final passage; may obtain short-term loans in the name of the city when authorized  
 281 by the council to do so; shall sign deeds, bonds, and contracts when authorized by the council  
 282 to do so; and shall perform all other duties imposed by this charter and by duly adopted  
 283 ordinances.

284 **SECTION 2.07.**

285 Mayor pro tem.

286 At the first regular meeting, and after the newly elected councilmembers have taken office  
 287 following each regular election, the council shall elect from its membership a mayor pro tem  
 288 for a term of one year. Upon the council's failure to elect a mayor pro tem by its first  
 289 meeting of each year, the incumbent councilmember who received the highest number of  
 290 votes when last elected shall be declared mayor pro tem. The mayor pro tem shall perform  
 291 the duties of the mayor during his or her absence from the city or his or her medically  
 292 diagnosed disability.

293

**SECTION 2.08.**

294

Vacancy in office of mayor or council.

295 (a) A vacancy shall exist if the mayor or a councilmember resigns, dies, moves his or her  
296 residence from the city, or is absent from four consecutive regular meetings of the mayor and  
297 council, except if granted a leave of absence by the council and such leave of absence is  
298 entered on the minutes; or if he or she is adjudged incompetent; or is convicted of  
299 malfeasance in office or of a felony.

300 (b) In the event a vacancy occurs in the office of a member of the council from any cause  
301 other than the expiration of a term of office, the vacancy shall be filled in the following  
302 manner:

303 (c) If the vacancy occurs within 12 months of the expiration of the term, the vacancy shall  
304 be filled by the mayor and council electing a qualified person to serve out the unexpired term  
305 of office. If the vacancy occurs within 30 days prior to the regular city election, the vacancy  
306 shall be filled at such regular election under the same rules and regulations and provisions  
307 of law pertaining to the election of councilmembers.

308 (d) If the vacancy occurs at any other time not provided for above, the vacancy shall be  
309 filled by a special election pursuant to a call of a special election as provided by this charter.  
310 At no time shall there be more than one councilmember so appointed holding office; and if  
311 a vacancy occurs on the council with one member so appointed on the council, a special  
312 election shall be held within a period of 45 days after the office becomes vacant pursuant to  
313 a call of a special election as provided by this charter; however, if a special election is called  
314 pursuant to this charter, the vacancy previously filled by appointment as well as the existing  
315 vacancy shall be filled for the remainder of the unexpired terms in a special election:  
316 provided, however, if a regular election for the city shall be held within three months after  
317 the second vacancy occurs, the first vacancy previously filled by appointment and the second  
318 vacancy shall be filled for the unexpired terms at such regular election.

319 (e) In the event a vacancy shall occur in the office of mayor, a special election shall be called  
320 and held in the manner prescribed by the Georgia Election Code (Title 21, Ch. 2, O.C.G.A.)  
321 as it now exists or may hereafter be amended, so long as the vacancy occurs at least three  
322 months prior to the regular expiration date of the term. If the vacancy occurs within three  
323 months of the expiration date of the term, the mayor pro tem shall serve until the expiration  
324 date, and shall be authorized during such period to exercise all of the powers of the mayor  
325 provided by this charter.

326

**SECTION 2.09.**

327

Compensation and expenses.

328 The mayor and council may determine the salary of the mayor and councilmembers by  
 329 ordinance, provided that salary changes enacted shall not become effective until the first  
 330 regular meeting after the next calendar year. Each councilmember and the mayor, when  
 331 authorized by the mayor and council and upon presentation of itemized vouchers, shall  
 332 receive their actual and necessary expenses incurred in the performance of their duties of  
 333 office.

334

**SECTION 2.10.**

335

City clerk.

336 (a) The mayor and council shall appoint a city clerk who shall serve at their pleasure,  
 337 supervision, and direction. The city clerk shall be responsible for keeping and preserving the  
 338 city seal and all records of the council; attending meetings of the council and keeping a  
 339 journal of its proceedings at such meetings, including the names of members present and  
 340 absent, the vote of each member on each question, each motion considered, and the text of  
 341 each resolution or ordinance considered; preparing and certifying copies of official records  
 342 in his or her office, for which fees may be prescribed by ordinance; and performing such  
 343 other duties as may be required by law or as tasked or directed by the mayor and council.  
 344 (b) The mayor and council may require the clerk, before entering upon discharge of his or  
 345 her duties, to give good and sufficient bond in the amount to be decided by the mayor and  
 346 council, but not less than \$2,500.00, such bond payable to the City of Kennesaw, for the  
 347 faithful performance of his or her duties and to secure against corruption, malfeasance,  
 348 misappropriations or unlawful expenditures. Such surety bond shall be obtained from a  
 349 surety company licensed to do business in the State of Georgia and approved by the mayor  
 350 and council, and the premium thereon shall be paid by the city.

351

**SECTION 2.11.**

352

City legislation.

353 Any action of the council having a regulatory or penal affect or required to be done by  
 354 ordinance under this charter shall be done only by ordinance. Each resolution and ordinance  
 355 shall be in written form before being introduced. The affirmative vote of at least three  
 356 members of the council shall be required to pass any resolution or ordinance. After adoption  
 357 of ordinances, the city clerk shall number ordinances consecutively, in the order of their final

358 adoption, and shall copy them into a permanent record book used solely for this purpose; and  
 359 the city clerk shall do likewise for resolutions, using a separate series of numbers and a  
 360 separate record book, which may include electronic files. The original copies of all  
 361 ordinances, resolutions, and motions shall be filed and preserved by the city clerk.

362 **SECTION 2.12.**

363 Public reading of ordinances.

364 No ordinance shall be approved until a summary of such shall have been read at a regular  
 365 public meeting of the mayor and city council of Kennesaw, Georgia.

366 **SECTION 2.13.**

367 City manager.

368 The city manager shall serve at the pleasure and direction of the Kennesaw mayor and  
 369 council and shall assume the position and duties as the chief administrative officer of the city  
 370 and such other duties as may be assigned by the mayor and council from time to time,  
 371 including but not limited to director of finance and administration, purchasing agent for all  
 372 departments, coordinator of commissions and departments of the city, and the general  
 373 management of city business under the direction and guidance of the mayor and council.

374 **ARTICLE III.**

375 **ORGANIZATION AND PERSONNEL.**

376 **SECTION 3.01.**

377 Organization.

378 The city government shall continue as presently organized. The city manager, with approval  
 379 of the mayor and council, may establish, abolish, merge, or consolidate offices, positions of  
 380 employment, departments, and agencies of the city; may provide that the same person shall  
 381 fill a number of offices and positions of employment, and may transfer or change the  
 382 functions and duties of offices, positions of employment, departments, and agencies of the  
 383 city.

384

**SECTION 3.02.**

385

Administrative duties of the mayor.

386 The mayor shall be the executive head of the city government. Together with the city  
387 council, the mayor shall appoint a city manager who shall be responsible for the efficient and  
388 orderly administration of the city's affairs. The mayor shall be responsible for the  
389 enforcement of laws, rules, regulations, ordinances, and franchises in the city. The mayor  
390 may conduct inquiries and investigations into the conduct of the city's affairs and shall have  
391 such powers and duties as may be provided by ordinance not inconsistent with this charter.

392

**SECTION 3.03.**

393

City attorney.

394 The mayor and council shall appoint a city attorney together with such assistant city  
395 attorneys as may be authorized by ordinance. The city attorney shall be responsible for  
396 representing and defending the city in all litigation in which the city is a party; may be the  
397 prosecuting officer in the municipal court; shall attend the meetings of the council as  
398 directed; and shall advise the council, mayor, and other officers and employees of the city  
399 concerning legal aspects of the city's affairs.

400

**SECTION 3.04.**

401

Oath of office.

402 Before a person takes any office in the city government, he or she shall take, before an  
403 officer of the state authorized to administer oaths, the following such oath or affirmation:  
404 "I swear that I will faithfully and impartially uphold the Constitution of this State and of the  
405 United States, and will conduct myself faithfully as mayor (or councilmember, as the case  
406 may be) during my continuance in office. I have not, in order to influence my election to this  
407 office, directly or indirectly promised my vote or support to any person or officer in the  
408 government of the City of Kennesaw, nor for any other office. I will not knowingly permit  
409 my vote in the election or appointment of any persons to a position in this government to be  
410 influenced by fear, favor, or the hope of reward, but in all things pertaining to my office I  
411 will be governed by what in my judgment is for the public good and for the best interest of  
412 the city, so help me God."

413 **SECTION 3.05.**

414 Political activity prohibited.

415 No officer or employee of the city, other than the mayor and councilmembers, shall continue  
416 in the employment of the city after becoming a candidate for nomination or election to any  
417 city office.

418 **SECTION 3.06.**

419 City planning and renewal.

420 The council may create and establish a planning commission pursuant to the provisions of  
421 general law as they now exist or as they may hereafter be amended.

422 **ARTICLE IV.**

423 **FISCAL ADMINISTRATION**

424 **SECTION 4.01.**

425 Fiscal year.

426 The fiscal year of the city government shall begin on the first day of October and end on the  
427 30th day of September of each year. Such fiscal year shall constitute the budget year and the  
428 year for fiscal accounting and reporting of every office, department, agency, and activity of  
429 the city government unless otherwise prohibited by law.

430 **SECTION 4.02.**

431 Mayor to submit annual budget.

432 On or before a date fixed by the council, but not later than October 31, the city manager shall  
433 submit to the council through the mayor a proposed operating budget for the new fiscal year,  
434 showing separately for the general funds, each utility, and other funds, the following: (a) the  
435 revenue and expenditures during the preceding fiscal year; (b) appropriations, estimated  
436 revenue, and recommended expenditures for the next fiscal year; (c) a comparative statement  
437 of the assets, liabilities, reserves, and surplus at the end of the current fiscal year; and (d)  
438 such other information and data as may be considered necessary by the mayor and council.

439

**SECTION 4.03.**

440

Action by council on budget.

441 Before the end of the second month of the current fiscal year, the council shall adopt an  
442 appropriate ordinance based on the mayor's budget, with such modifications as the council  
443 considers necessary or desirable. Appropriations need not be in more detail than a lump sum  
444 for each department, office, and agency unless otherwise directed by the council. The  
445 council shall not make any appropriations in excess of estimated revenue, except to provide  
446 for an actual emergency threatening the health, property, or lives, safety, or general welfare  
447 of the inhabitants of the city; provided the council unanimously agrees that there is such an  
448 emergency. If conditions prevent the adoption of an appropriation ordinance before the  
449 second month of the current fiscal year, the appropriations for the previous fiscal year shall  
450 become the appropriations for the new fiscal year, subject to amendment as provided by  
451 ordinance specifically passed for such purpose.

452

**SECTION 4.04.**

453

Additional appropriations.

454 The council may make appropriations in addition to those contained in the current operating  
455 budgets at any regular or special meeting called for such purpose, but any such additional  
456 appropriations shall be made for any public purpose only from an existing undesignated cash  
457 fund balance.

458

**SECTION 4.05.**

459

Lapse of appropriations.

460 All unencumbered balances of appropriations in the current operating budget at the end of  
461 the fiscal year and following review of revenues, any net surplus, shall be closed into the  
462 applicable undesignated fund balance.

463

**SECTION 4.06.**

464

Capital improvements budget.

465 (a) On or before a date fixed by the council, but not later than the first regularly scheduled  
466 meeting of the new fiscal year, the city manager shall submit to the council through the  
467 mayor a proposed capital improvements budget with his or her recommendations as to the  
468 means of financing such improvements. The council shall have power to accept such budget

469 with or without amendments or reject the proposed budget and proposed means of financing.  
 470 The council shall not authorize an expenditure for the construction of any building, structure,  
 471 work, or improvement unless the appropriations for such projects are included in the capital  
 472 improvements budget, except to meet a public emergency in the lives, health, or property of  
 473 inhabitants, when passed by a four-fifths vote of the membership of the council. Such capital  
 474 improvements budget may be revised and extended each year with regard to the capital  
 475 improvements still pending on or in the process of construction or acquisition.

476 (b) Before November 30 of the current fiscal year, the council shall adopt an appropriate  
 477 ordinance based on the proposed capital improvements budget, with such modifications as  
 478 the council considers necessary or desirable. No appropriation provided for in the capital  
 479 improvements budget shall lapse until the purpose for which the appropriation was made  
 480 shall have been accomplished or abandoned, provided that, the mayor and council may  
 481 submit amendments to the capital improvements budget at any time during the fiscal year.  
 482 Any such amendments to the capital improvements budget shall become effective only upon  
 483 adoption by a majority vote of the council.

#### 484 **SECTION 4.07.**

#### 485 Sale of city property.

486 Subject to other provisions of state and federal law, the mayor and council may sell any city  
 487 property which is obsolete, surplus, or unusable at public sale with no less than 15 days'  
 488 written notice to the public following the appropriate action declaring the property obsolete,  
 489 surplus, or unusable at a regular meeting of the mayor and council, for such consideration  
 490 as received; provided, however, the mayor and council shall not be obligated to sell such  
 491 property unless the mayor and council consider the price to be equitable and just. In  
 492 accordance with Code Section 36-37-6(b) of the O.C.G.A., as amended, surplus property  
 493 with an estimated value of \$500.00 or less, as determined by the finance director, city  
 494 manager, or his or her designee, may be sold in the open market without advertisement and  
 495 without acceptance of bids. Notice of the sale of surplus property may be posted on city  
 496 bulletin boards so as to make it open market.

#### 497 **SECTION 4.08.**

#### 498 Annual audit.

499 The mayor and council shall employ a certified public accountant to make an annual audit  
 500 of all financial books and records of the city. The accountant shall file his or her report with  
 501 the mayor and council and shall prepare a summary of the report which shall be furnished

502 or made available to the mayor and every councilmember within 180 days of the closed  
503 audited fiscal year.

504 **SECTION 4.09.**

505 Publication of financial statement.

506 As soon as practicable after the close of the fiscal year, but within six months after the close  
507 thereof, the mayor and council shall cause to be published in a local newspaper or on the  
508 city's website an annual report which shall contain a general statement of revenues and  
509 expenditures showing all municipal accounts as of the close of the preceding fiscal year.  
510 Such annual report shall be prepared so as to fairly represent the general financial condition  
511 of the city as of the close of the preceding fiscal year.

512 **SECTION 4.10.**

513 Property taxes.

514 All property subject to taxation for state or county purposes, assessed as of January 1 in each  
515 year, shall be returned for taxes each year on or before April 1. Failure to make a tax return  
516 in a timely manner, as defined by city ordinance, will result in a penalty of not more than 10  
517 percent of the taxes due on such property, along with interest on delinquent taxes and  
518 penalties, such interest being 1 percent per month, all as described by city ordinance. The  
519 board of tax assessors appointed by the Cobb County Board of Commissioners shall evaluate  
520 and assess all city property for tax purposes as provided by Georgia law. Appeals involving  
521 city property assessments may be taken as now or as may hereafter be provided by general  
522 law.

523 **SECTION 4.11.**

524 Tax levy.

525 (a) The mayor and council shall be authorized to levy an ad valorem tax on all real and  
526 personal property within the corporate limits of the city for the purpose of raising revenues  
527 to defray the costs of operating the city government, providing governmental services, and  
528 for any other public purpose as determined by the mayor and council, and is also authorized  
529 to provide for sufficient levy to pay principal and interest on general obligation.

530 (b) The mayor and council shall establish by ordinance a millage rate for the city property  
531 tax; a due date; and in what length of time these taxes must be paid. The mayor and council  
532 shall establish by ordinance a millage rate for the city property tax; a due date; and in what

533 length of time these taxes must be paid. The mayor and council may provide by ordinance  
534 for the payment of these taxes by installments or in one lump sum, as well as to authorize the  
535 voluntary payment of taxes prior to the time when due.

536 **SECTION 4.12.**

537 Collection of delinquent taxes.

538 The mayor and council may provide by ordinance for the collection of delinquent taxes by  
539 fi. fa. issued by the city clerk or finance director and executed by the chief of police or any  
540 person designated by ordinance under the same procedure provided by laws governing  
541 execution of such process from the superior court, or by the use of any other available legal  
542 processes and remedies. A lien shall exist against all property on which city property taxes  
543 are levied, as of the assessment day of January 1 of each year, which shall be superior to all  
544 other liens except that it shall have equal dignity with those for federal, state, or county taxes.

545 **SECTION 4.13.**

546 Transfer of executions.

547 The clerk of the city or finance director of Kennesaw shall be authorized to transfer and  
548 assign any fi. fa. or execution issued for street, sewer, or any other assessment in the same  
549 manner, upon the same terms, and to the same effect, and thereby vest the purchaser or  
550 transferee, with the same rights as in cases of sales or transfers of tax fi. fas. as now provided  
551 by law; and in all sales of property hereafter made under execution on behalf of the city for  
552 the collection of street, sewer, and other assessments, the owner or owners, as the case may  
553 be, are authorized to redeem same within the same time and on compliance with the same  
554 terms and payment of the same premium, interest, and costs, as in cases of redemption of  
555 property where sold under state or county ad valorem tax fi. fa. as the same now exists, or  
556 as may from time to time be provided by law.

557 **SECTION 4.14.**

558 Special assessments.

559 The council may assess all or part of the cost of constructing, reconstructing, widening, or  
560 improving any public way, street, sidewalk, curbing, gutters, sewers, or other utility mains  
561 and appurtenances, against the abutting property owners, under such terms and conditions  
562 as may be prescribed by ordinance. Such special assessments shall become delinquent 30  
563 days after their due dates, and shall thereupon be subject, in addition to fi. fa. charges, to

564 interest at the rate of 1 percent per month from due date until paid. Upon payment becoming  
 565 90 days past due from the due date, a penalty of 10 percent or ten dollars (\$10.00), whichever  
 566 is greater, shall be added to the total balance. A lien for such amount plus fi. fa. charges,  
 567 interest, and penalties, shall exist against the abutting property superior to all other liens,  
 568 except that it shall be of equal dignity with liens for county and city property taxes, and such  
 569 lien shall be enforceable by the same procedures and under the same remedies as provided  
 570 in this article for city property taxes.

571 **SECTION 4.15.**

572 Investment, preservation, and use of proceeds from sale of water and sewer system.

573 (a) In the event the City of Kennesaw shall cause the water and sewer system to be sold, the  
 574 city shall invest a minimum of \$9,000,000.00 of the net proceeds therefrom in state approved  
 575 investment vehicles. The principal balance shall neither be spent nor sold without first  
 576 putting the same question describing such use of the principal balance on a public  
 577 referendum. Such expenditure of the principal balance shall be spent or sold only upon its  
 578 approval by a majority of the voters casting a vote in such public referendum.

579 (b) The provisions set forth in the paragraph above shall not affect the right of this mayor  
 580 and council, or any succeeding mayor and council, to use any accumulated interest generated  
 581 by the chosen investment vehicle for whatever lawful purposes the mayor and council so  
 582 determine, including, but not limited to, the repayment of bonded indebtedness and other  
 583 municipal obligations.

584 **ARTICLE V.**

585 **ELECTIONS.**

586 **SECTION 5.01.**

587 Regular elections.

588 The regular elections for mayor and councilmembers shall be held on the Tuesday next  
 589 following the first Monday in November of the election year as their terms fall. Except as  
 590 otherwise provided by law, officials elected at any regular election shall take office at the  
 591 first regularly scheduled council meeting in January following their respective elections.

592

**SECTION 5.02.**

593

## Qualification of candidates.

594 (a) As provided in state law, each candidate for municipal office or a designee shall file a  
 595 notice of candidacy in the office of the election superintendent during the city's qualifying  
 596 period. The election superintendent shall designate the days of the qualifying period, which  
 597 shall be no less than three days and no more than five days. The days of the qualifying  
 598 period shall be consecutive days.

599 Qualifying periods shall commence no earlier than 8:30 a.m. on the last Monday in August  
 600 immediately preceding the general election and shall end no later than 4:30 p.m. on the  
 601 following Friday; and in the case of a special election, the municipal qualifying period shall  
 602 commence no earlier than the date of the call and shall end no later than 25 days prior to the  
 603 election.

604 (b) As provided in state law, the hours of qualifying each day shall be from 8:30 a.m. until  
 605 4:30 p.m. with one hour allowed for the lunch break; provided, however, that should the city  
 606 have normal business hours which cover a lesser period of time, it shall conduct qualifying  
 607 during its normal business hours. Except in the case of a special election, notice of the  
 608 opening and closing dates and the hours for candidates to qualify shall be published at least  
 609 two weeks prior to the opening of the qualifying period.

610 (c) Notwithstanding anything contained in this section, the qualification period shall be no  
 611 less than that required by O.C.G.A. § 21-2-132(d)(3), as amended.

612

**SECTION 5.03.**

613

## Qualification of electors.

614 Any person meeting the qualifications of an elector of members of the General Assembly  
 615 under state law who is a bona fide resident of the City of Kennesaw shall be qualified to  
 616 register as an elector in any city election held under this charter.

617

**SECTION 5.04.**

618

## Applicability of general laws.

619 Except as otherwise provided by this charter, the election of all officials of the City of  
 620 Kennesaw where provision is made for election by the qualified voters thereof, shall be  
 621 conducted as to special or general elections in conformity so far as applicable with the  
 622 provisions of the Georgia Election Code in Title 21, Chapter 2 of the Official Code of  
 623 Georgia Annotated as it now exists or may hereafter be amended. Whenever any time period

624 established by such code is altered so as to change or supersede any time period provided in  
 625 this charter, it shall be considered that such periods in this charter shall be correspondingly  
 626 changed so as to avoid any conflict between the charter and the general law.

627 **SECTION 5.05.**

628 Time of election; polls.

629 At all primaries and elections the polls shall be opened at 7:00 a.m. eastern standard time or  
 630 eastern daylight time, whichever is applicable, and shall remain open continuously until 7:00  
 631 p.m. eastern standard time or eastern daylight time, whichever is applicable, at which time  
 632 they shall be closed as provided by state law.

633 **SECTION 5.06.**

634 Place of elections.

635 The polling place or places for holding elections shall be prescribed by the mayor and  
 636 council and shall be published in the election notice; provided, however, any change in a  
 637 polling place shall be effected as provided by the Georgia Election Code in Title 21, Chapter  
 638 2 of the Official Code of Georgia Annotated as it now exists or may hereafter be amended.

639 **SECTION 5.07.**

640 Voter registration.

641 In all elections held in the City of Kennesaw, whether special or general elections, the voters,  
 642 in addition to the qualifications already prescribed, shall be registered as may be prescribed  
 643 by ordinance.

644 **SECTION 5.08.**

645 Rules.

646 The mayor and council are hereby authorized to enact by ordinance such additional rules  
 647 consistent with this charter and general laws as are deemed necessary for the conduct of  
 648 elections.

649 **SECTION 5.09.**

650 Absentee ballots.

651 The mayor and council in their discretion are authorized to provide by ordinance for absentee  
652 ballots for any city election.653 **SECTION 5.10.**

654 Call for elections.

655 Any call for an election which is required to be made by the laws of this state shall be made  
656 by the mayor and council.657 **SECTION 5.11.**

658 Contract to hold elections.

659 The city may contract with other local government entities to hold elections for the city.

660 **ARTICLE VI.**661 **MUNICIPAL COURT.**662 **SECTION 6.01.**

663 Creation.

664 There is hereby established a court to be known as the "Municipal Court," City of Kennesaw,  
 665 which shall have jurisdiction and authority to try offenses against laws and ordinances of the  
 666 city and to punish for violations of the same. Such court shall have the power to enforce its  
 667 judgments by the imposition of such penalties as may be provided by law; to punish  
 668 witnesses for nonattendance, and to punish also any person who may counsel or advise, aid,  
 669 encourage, or persuade another whose testimony is desired or material in any proceeding  
 670 before such court, to go or move beyond the reach of the process of the court; to try all  
 671 offenses within the territorial limits of the City of Kennesaw constituting traffic cases which  
 672 under the laws of Georgia are placed within the jurisdiction of municipal or police courts to  
 673 the extent of and in accordance with the provisions of such laws and all laws subsequently  
 674 enacted amendatory thereof; to establish bail and recognizances to insure the presence of  
 675 those charged with violations and to prescribe the condition of forfeiture of the same; and to  
 676 administer oaths and to perform all other acts necessary and proper to the conduct of such  
 677 court. The presiding officer of such court shall be known as the municipal court judge. Such  
 678 court shall be convened at such times as designated by ordinance or at such times as deemed

679 necessary to keep current the dockets thereof. The court shall sit at a place designated by the  
680 mayor and council.

681 **SECTION 6.02.**

682 Municipal court judge.

683 (a) No person shall be qualified or eligible to serve as municipal court judge unless he or she  
684 shall have attained the age of 21 years, shall not have been convicted of a crime involving  
685 moral turpitude, and shall be qualified to vote in Cobb County. The municipal court judge  
686 shall be appointed by the mayor and council and shall serve at their discretion. The  
687 compensation of the municipal court judge shall be fixed by the mayor and council. Nothing  
688 in this charter shall disqualify the mayor or any councilmember from serving as municipal  
689 court judge or municipal court judge pro tem.

690 (b) The municipal court judge pro tem shall serve in the absence of the municipal court  
691 judge, shall have the same qualifications as the municipal court judge, and shall be appointed  
692 by the mayor and council.

693 (c) Before commencing the duties of his or her office, the municipal court judge or  
694 municipal court judge pro tem shall take an oath before an officer duly authorized to  
695 administer oaths in this state that he or she shall truly, honestly, and faithfully discharge the  
696 duties of his or her office to the best of his or her ability without fear, favor, or partiality.  
697 This oath shall be entered upon the minutes of the meeting of the mayor and council.

698 **SECTION 6.03.**

699 Jurisdiction.

700 The municipal court judge shall have power to impose fines, costs, and forfeitures for the  
701 violation of any law or ordinance of the City of Kennesaw passed in accordance with this  
702 charter for each offense in an amount not to exceed \$1,000.00, to imprison offenders for a  
703 period of not more than six months, or both, or such lesser or greater punishment as may be  
704 prescribed by state law. Such municipal court judge shall not have the authority to inflict a  
705 greater punishment for contempt than to impose a fine not exceeding \$200.00, imprisonment  
706 not exceeding ten days, or both, or such lesser or greater punishment as may be prescribed  
707 by state law. The municipal court judge shall be for all intents and purposes a magistrate,  
708 so far as to enable him or her to issue warrants for offenses committed within the limits of  
709 the City of Kennesaw, which warrants shall be executed by an officer of the city, and to  
710 commit the offenders to jail or admit them to bail inailable cases for their appearance at the  
711 next term of court of competent jurisdiction to be held in the city. The municipal court shall

712 also have concurrent jurisdiction with that of the magistrate over offenses against the  
713 criminal laws of the state committed within the corporate limits. Except as may be otherwise  
714 specified in this charter, the municipal court judge is vested with all of the jurisdiction and  
715 powers as to the entire area within the corporate limits of the City of Kennesaw. The  
716 municipal court is specifically invested with all jurisdiction and powers throughout the entire  
717 area within the corporate limits granted by state laws generally to mayors, municipal court  
718 judges, and police courts, and particularly such laws as authorize the abatement of nuisances.  
719 The municipal court judge is hereby authorized to administer oaths.

720 **SECTION 6.04.**

721 Right of appeal.

722 The right of appeal and procedures pertaining to appeal bonds to the Superior Court of Cobb  
723 County from the municipal court shall lie in the same manner and under the same procedure  
724 as generally prescribed for appeals and appeal bonds from the probate court. An appeal to  
725 the superior court shall be a de novo proceeding.

726 **SECTION 6.05.**

727 Court costs.

728 In all cases in the municipal court of the City of Kennesaw the costs incurred and allowable  
729 by this charter may be computed under the provisions of the laws of the State of Georgia  
730 fixing costs in the magistrate courts of this state, or the mayor and council may establish a  
731 schedule of fees to defray costs of operation, and the city shall be entitled to reimbursement  
732 of the costs, meals, transportation, and caretaking of prisoners bound over to the superior  
733 court for violations of state law. The mayor and council may also provide a uniform scale  
734 of costs of the clerk and police officers of the city for all services in the arrest and  
735 prosecution of offenders in the municipal court and in the issuance and collection of tax and  
736 other executions; and for their collection and payment into the city treasury. The municipal  
737 court judge is hereby authorized to issue subpoenas to compel the attendance of witnesses  
738 to such municipal court, and to issue such other processes as may be necessary for the proper  
739 administration of such court.

740 **SECTION 6.06.**

741 Rules for court.

742 With the approval of the mayor and council, the municipal court judge shall have full power  
743 and authority to make reasonable rules and regulations necessary and proper to secure the  
744 efficient and successful administration of the business of such court; provided, however, that  
745 the mayor and council may adopt in part or in toto the rules and regulations relative to the  
746 procedures for the operation of the superior courts under the general laws of the State of  
747 Georgia.

748 **SECTION 6.07.**

749 Probation.

750 In addition to the provisions of Section 6.03 of this charter, the municipal court shall have  
751 the authority to place any person found guilty of a violation of a traffic law or ordinance of  
752 the City of Kennesaw on probation and to suspend or modify any sentence. In addition to  
753 such punishment, the court may require attendance at safety education schools, alcohol or  
754 drug risk reduction schools, or other training and educational programs. The municipal court  
755 shall have the authority to order any person placed on probation to pay a probation fee to the  
756 City of Kennesaw Probation Department or to any corporation, enterprise, or agency to  
757 which the City of Kennesaw has contracted to perform probation services. In addition, any  
758 person required to attend a safety education school, alcohol or drug risk reduction school, or  
759 other training or educational programs shall pay all the costs thereof. The municipal court  
760 shall further have authority to require any person found guilty of a violation of a traffic law  
761 or ordinance of the City of Kennesaw to submit to random drug or alcohol testing and to pay  
762 all costs of such tests. The mayor and council shall have the power to set probation fees.

763 **ARTICLE VII.**

764 **GENERAL PROVISIONS.**

765 **SECTION 7.01.**

766 Specific Repealer.

767 An Act incorporating the City of Kennesaw in the County of Cobb, approved April 10, 1971  
768 (Ga. L. 1971, p. 3620), is hereby repealed in its entirety and all amendatory acts thereto are  
769 likewise repealed in their entirety. All other laws and parts of laws in conflict with this  
770 charter are hereby repealed.

771 **SECTION 7.02.**

772 Effective date.

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

775 **SECTION 7.03.**

776 General repealer.

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