

House Bill 629 (AS PASSED HOUSE AND SENATE)

By: Representatives Gregory of the 34th, Setzler of the 35th, Carson of the 46th, Cooper of the 43rd, Teasley of the 37th, 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.