House Bill 309

By: Representative Morris of the 155th

A BILL TO BE ENTITLED

AN ACT

To provide a new charter for the City of Higgston; to provide for incorporation, boundaries, and powers of the city; to provide for a governing authority of such city and the powers, duties, authority, election, terms, method of filling vacancies, compensation, qualifications, prohibitions, and removal from office relative to members of such governing authority; to provide for inquiries and investigations; to provide for organization and procedures; to provide for ordinances and codes; to provide for the office of mayor and certain duties and powers relative to the office of mayor; to provide for administrative responsibilities; to provide for boards, commissions, and authorities; to provide for a city attorney, a city clerk, a city treasurer, and other personnel; to provide for rules and regulations; to provide for a municipal court and the judge or judges thereof; to provide for practices and procedures; to provide for taxation and fees; to provide for franchises, service charges, and assessments; to provide for bonded and other indebtedness; to provide for accounting and budgeting; to provide for purchases; to provide for the sale of property; to provide for bonds for officials; to provide for eminent domain; to provide for penalties; to provide for definitions and construction; to provide for severability; to provide for other matters relative to the foregoing; to repeal a specific Act; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I

INCORPORATIONS AND POWERS

SECTION 1.10.

Name.

This city and the inhabitants thereof are reincorporated by the enactment of this charter and are hereby constituted and declared a body politic and corporate under the name and style City of Higgston and by that name shall have perpetual succession.

SECTION 1.11.

Corporate boundaries.

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

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

SECTION 1.12.

Powers and construction.

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

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

SECTION 1.13.

Examples of powers.

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

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

(c) Building Regulation. To regulate and to license the erection and construction of buildings and all other structures; to adopt building, housing, plumbing, electric, gas, and heating and air-conditioning codes; and to regulate all housing, and building trades;

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

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

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

(g) Emergencies. To establish procedures for determining and proclaiming that an emergency situation exists inside or outside the city and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health, or well-being of the citizens of the city;

(h) Environmental Protection. To protect and preserve the natural resources, environment, and vital areas of the state through the preservation and improvement of the air quality, the restoration and maintenance of water resources, the control of erosion and sedimentation, the management of solid and hazardous waste, and other necessary actions for the protection of the environment;

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

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

(k) General Health and Welfare. To define, regulate, and prohibit any act, practice, conduct, or use of property which is detrimental to health, sanitation, cleanliness, welfare, and safety of the inhabitants of the city and to provide for the enforcement of such standards;

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

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

(n) Jail Sentences. To provide that persons given jail sentences in the city´s court may work out such sentences in any public works or on the streets, roads, drains, and other public property in the city, to provide for commitment of such persons to any jail, or to provide for commitment of such persons to any county work camp or county jail by agreement with the appropriate county officials;

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

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

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

(r) Municipal Property Ownership. To acquire, dispose of, lease, and hold in trust or otherwise, any real, personal, or mixed property, in fee simple or lesser interest, inside or outside the property limits of the city;

(s) Municipal Property Protection. To provide for the preservation and protection of property and equipment of the city and the administration and the use of same by the public; and to prescribe penalties and punishment for violations thereof;

(t) Municipal Utilities. To acquire, lease, construct, operate, maintain, sell, and dispose of public utilities, including but not limited to a system of waterworks, sewers and drains, sewage disposal, gas works, electric light plants, cable television and other telecommunications, transportation facilities, public airports, and other public utilities; and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties and to provide for the withdrawal of service for refusal or failure to pay the same;

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

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

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

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

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

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

(aa) Public Peace. To provide for the prevention and punishment of drunkenness, riots, and public disturbances;

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

(cc) Public Utilities and Services. To grant franchises or make contracts for or impose taxes on public utilities and public services companies; and to prescribe the rates, fares, regulations, and standards and conditions of service applicable to the service to be provided

by the franchise grantee or contractor, insofar as not in conflict with regulations of the Public Service Commission;

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

(ee) Retirement. To provide and maintain a retirement plan for officers and employees of the city;

(ff) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and walkways within the corporate limits of the city; and to grant franchises and rights of way throughout the streets and roads and over the bridges and viaducts for the use of public utilities; and to require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands and to impose penalties for failure to do so;

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

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

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

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

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

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

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

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

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

SECTION 1.14.

Exercise of powers.

All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or employees shall be carried into execution as provided in this charter. If this charter makes no provisions, such shall be carried into execution as provided by ordinance or as provided by pertinent laws of the State of Georgia.

ARTICLE 2

GOVERNMENTAL STRUCTURE

SECTION 2.10.

City council creation; number; election.

The legislative authority of the government of this city, except as otherwise specifically provided in this charter, shall be vested in a city council to be composed of a mayor and five councilmembers. The city council established shall in all respects be a successor to and

continuation of the governing authority under prior law. The mayor and councilmembers shall be elected in the manner provided by general law and this charter.

SECTION 2.11.

Mayor or city council terms and qualifications for office.

The mayor and members of the city council shall serve for terms of four years and until their respective successors are elected and qualified. No person shall be eligible to serve as mayor or councilmember unless that person shall have been a resident of the city for 12 months prior to the date of election of mayor or members of the council; each shall continue to reside therein during that member's period of service and to be registered and qualified to vote in municipal elections of this city.

SECTION 2.12.

Vacancy; filling of vacancies.

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

(b) Filling of Vacancies —A vacancy in the office of mayor or councilmember shall be filled for the remainder of the unexpired term, if any, by appointment by the council if less than 12 months remains in the unexpired term, otherwise by an election, as provided for in Section 5.14 of this charter and in accordance with Titles 21 and 45 of the O.C.G.A., or other such laws as or may hereafter be enacted.

SECTION 2.13.

Compensation and expenses.

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

SECTION 2.14.

Holding other office; voting when financially interested.

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

(b) Except as authorized by law, the mayor or any councilmember shall not hold any other city office or city employment during the term for which that person was elected.

(c) Neither the mayor nor any member of the city council shall vote upon, sign, or veto any ordinance, resolution, contract, or other matter in which that person is financially interested.

SECTION 2.15.

Inquiries and investigations.

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

SECTION 2.16.

General power and authority of the city council.

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

SECTION 2.17.

Eminent domain.

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

SECTION 2.18.

Organizational meetings.

The city council shall hold an organizational meeting on July 3, 2001. The meeting shall be called to order by the city clerk and the oath of office shall be administered to any newly elected members as follows:

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

SECTION 2.19.

Regular and special meetings.

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

(b) Special meetings of the city council may be held on call of the mayor or four members of the city council. Notice of such special meetings shall be served on all other members personally, or by telephone personally, at least 48 hours in advance of the meeting. Such notice to councilmembers shall not be required if the mayor and all councilmembers are present when the special meeting is called. Such notice of any special meeting may be waived by a councilmember in writing before or after such a meeting, and attendance at the meeting shall also constitute a waiver of notice on any business transacted in such councilmember´s presence. Only the business stated in the call may be transacted at the special meeting.

(c) All meetings of the city council shall be public to the extent required by law and notice to the public of special meetings shall be made fully as is reasonably possible as provided by Code Section 50-14-1 of the O.C.G.A., or other such applicable laws as are or may hereafter be enacted.

SECTION 2.20.

Rules of procedure.

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

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

SECTION 2.21.

Quorum: voting.

The mayor or mayor pro tem. and city clerk and three councilmembers shall constitute a quorum and shall be authorized to transact business of the city council. Voting on the adoption of ordinances shall be by voice vote and the vote shall be recorded in the journal, but any member of the city council shall have the right to request a roll-call vote and such vote shall be recorded in the journal. Except as otherwise provided in this charter, the affirmative vote of three councilmembers shall be required for the adoption of any ordinance, resolution, or motion. An abstention shall be counted as an affirmative vote.

SECTION 2.22.

Ordinance form; procedures.

(a) Every proposed ordinance should be introduced in writing. No ordinance shall contain a subject which is not expressed in its title. The enacting clause shall be "It is hereby ordained by the governing authority of the City of Higgston" and every ordinance shall so begin.

(b) An ordinance may be introduced by any councilmember and be read at a regular or special meeting of the city council. Ordinances shall be considered and adopted or rejected by the city council in accordance with the rules which it shall establish; except for emergency ordinances provided in Section 2.24. Upon introduction of any ordinance, the clerk shall within five working days distribute a copy to the mayor and to each councilmember and shall file a reasonable number of copies in the office of the clerk and at such other public places as the city council may designate.

SECTION 2.23.

Action requiring an ordinance.

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

SECTION 2.24.

Emergencies.

(a) To meet a public emergency affecting life, health, property, or public peace, the city council may convene on call of the mayor or four councilmembers and promptly adopt an emergency ordinance, but such ordinance may not levy taxes; grant, renew, or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money except for loans to be repaid within 30 days. An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists, and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least four councilmembers shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed 30 days following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

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

SECTION 2.25.

Codes of technical regulations.

(a) The city council may adopt any standard code of technical regulations by reference thereof in an adopting ordinance. The procedure and requirements governing such adopting ordinance shall be as prescribed for ordinances generally except that: (1) the requirements of Section 2.22(b) for distribution and filing of copies of the ordinance shall be construed to include copies of any code of technical regulations, as well as the adopting ordinance; and (2) a copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to Section 2.26.

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

SECTION 2.26.

Signing; authenticating; recording; codification; printing.

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

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

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

SECTION 2.27.

Election of mayor; forfeiture; compensation.

The mayor shall be elected and serve for a term of four years and until a successor is elected and qualified. The mayor shall be a qualified elector of this city and shall have been a resident of the city for 12 months preceding the election. The mayor shall continue to reside in this city during the period of service. The mayor shall forfeit the office on the same grounds and under the same procedure as for councilmembers. The compensation of the mayor shall be established in the same manner as for councilmember.

SECTION 2.28.

Chief executive officer.

The mayor shall be the chief executive of this city. The mayor shall possess all of the executive and administrative power granted to the city under the Constitution and laws of the State of Georgia and the executive and administrative powers contained in this charter.

SECTION 2.29.

Powers and duties of mayor.

As the chief executive of this city, the mayor shall:

(a) See that all laws and ordinances of the city are faithfully executed;

(b) Appoint and remove all officers, department heads, and employees of the city, except as otherwise provided in this charter;

(c) Exercise supervision over all executive and administrative work of the city and provide for the coordination of administrative activities;

(d) Prepare and submit to the city council a recommended operating budget and capital budget;

(e) Submit to the city council at least once a year a statement covering the financial conditions of the city and, from time to time, such other information as the city council may request;

(f) Recommend to the city council such measures relative to the affairs of the city, improvement of the government, and promotion of the welfare of its inhabitants as the mayor may deem expedient;

(g) Call special meetings of the city council as provided for in Section 2.19(b);

(h) Approve or disapprove ordinances as provided in Section 2.30;

(i) Provide for an annual audit of all accounts of the city;

(j) Require any department or agency of the city to submit written reports whenever the mayor deems it expedient; and

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

SECTION 2.30.

Submission of ordinances to the mayor; veto power.

(a) Every ordinance adopted by the city council shall be presented promptly by the clerk to the mayor.

(b) The mayor, within ten calendar days of receipt of an ordinance, shall return it to the clerk with or without the mayor's approval or with the mayor's disapproval. If the ordinance has been approved by the mayor, it shall become law upon its return to the clerk; if the ordinance is neither approved nor disapproved, it shall become a law at 12:00 Noon on the tenth calendar day after its adoption; if the ordinance is disapproved, the mayor shall submit to the city council through the clerk a written statement of reasons for the veto. The clerk shall record upon the ordinance the date of its delivery to and receipt from the mayor.

(c) Ordinances vetoed by the mayor shall be presented by the clerk to the city council at its next meeting. If the city council then or at its next meeting adopts the ordinance by an affirmative vote of four members, it shall become law.

(d) The mayor may disapprove or reduce any item or items of appropriation in any ordinance. The approved part or parts of any ordinance making appropriations shall become law, and the part or parts disapproved shall not become law unless subsequently passed by the city council over the mayor´s veto as provided herein. The reduced part or parts shall be presented to city council as though disapproved and shall not become law unless overridden by the council as provided in subsection (c) above.

SECTION 2.31.

Mayor pro tem.; selection; duties.

By a majority vote, the city council shall elect a councilmember to serve as mayor pro tem. each year. The mayor pro tem shall preside at all meetings of the city council and shall assume the duties and powers of the mayor upon mayor's physical or mental disability or absence. The city council by a majority vote shall elect a new presiding officer from among its members for any period in which the mayor pro tem. is disabled, absent or acting as mayor. Any such absence or disability shall be declared by majority vote of all councilmembers.

ARTICLE III

ADMINISTRATIVE AFFAIRS.

SECTION 3.10.

Administrative and service departments.

(a) Except as otherwise provided in this charter, the city council, by ordinance, shall prescribe the functions or duties and establish, abolish, alter, consolidate, or leave vacant

all nonelective offices, positions of employment, departments, and agencies of the city, as necessary for the proper administration of the affairs and government of this city.

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

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

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

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

SECTION 3.11.

Boards, commissions, and authorities.

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

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

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

(d) Except as otherwise provided by charter or by law, no member of any board, commission, or authority shall hold any elective office in the city, with the exception of the Planning and Zoning Committee.

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

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

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

(g) All board members serve at will and may be removed at any time by a vote of four members of the city council unless otherwise provided by law.

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

SECTION 3.12.

City attorney.

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

SECTION 3.13.

City clerk.

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

SECTION 3.14.

Position classification and pay plans.

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

SECTION 3.15.

Personnel policies.

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

ARTICLE IV

JUDICIAL BRANCH

SECTION 4.10.

Creation; name.

The city may establish a court to be known as the Municipal Court of the City of Higgston.

SECTION 4.11.

Chief judge; associate judge.

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

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

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

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

(e) Before assuming office, each judge shall take an oath, given by the mayor, that the judge will honestly and faithfully discharge the duties of the office to the best of that person´s ability and without fear, favor, or partiality. The oath shall be entered upon the minutes of the city council journal required in Section 2.20.

SECTION 4.12.

Convening.

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

SECTION 4.13.

Jurisdiction; powers.

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

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

(c) The municipal court may fix punishment for offenses within its jurisdiction not exceeding a fine of $1,000.00 or imprisonment for no more than one year or both such fine and imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing as now or hereafter provided by law.

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

(e) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as surety for the appearance of persons charged with violations. Whenever any person shall give bail for that person´s appearance and shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge presiding at such time, and an execution issued thereon by serving the defendant and the defendant´s sureties with a rule nisi, at least two days before a hearing on the rule nisi. In the event that cash or property is accepted in lieu of bond for security for the appearance of a defendant at trial, and if such defendant fails to appear at the time and place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited to the city, or the property so deposited shall have a lien against it for the value forfeited which lien shall be enforceable in the same manner and to the same extent as a lien for city property taxes.

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

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

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

SECTION 4.14.

Certiorari.

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

SECTION 4.15.

Rules for court.

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

ARTICLE V

ELECTIONS AND REMOVAL

SECTION 5.10.

Applicability of general law.

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

SECTION 5.11.

Election of the city council and mayor.

In odd years, on the Tuesday next following the first Monday in November, there shall be an election for the mayor and the city council. The terms of office shall begin on January 1 following the November election.

SECTION 5.12.

Nonpartisan elections.

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

SECTION 5.13.

Election by plurality.

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

SECTION 5.14.

Special elections; vacancies.

In the event that the office of mayor or councilmember shall become vacant as provided in Section 2.12 of this charter, the city council or those remaining shall order a special election to fill the balance of the unexpired term of such official; provided, however, if such vacancy occurs within 12 months of the expiration of the term of that office, the city council or those remaining shall appoint a successor for the remainder of the term. In all other respects, the special election shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

SECTION 5.15.

Other provisions.

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

SECTION 5.16.

Removal of officers.

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

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

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

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

ARTICLE VI

FINANCE.

SECTION 6.10.

Property tax.

The city council may assess, levy, and collect an ad valorem tax on all real and personal property within the corporate limits of the city that is subject to such taxation by the state and county. This tax is for the purpose of raising revenues to defray the costs of operating the city

government, of providing governmental services, for the repayments of principal and interest on general obligations, and for any other public purpose as determined by the city council at its discretion.

SECTION 6.11.

Millage rate; due dates; payment methods.

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

SECTION 6.12.

Occupation and business taxes.

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

SECTION 6.13.

Regulatory fees; permits.

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

SECTION 6.14.

Franchises.

(a) The city council shall have the power to grant franchises for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies and other similar organizations. The city council shall determine the duration, terms, whether the same shall be exclusive or

nonexclusive, and the consideration for such franchises; provided, however, no franchise shall be granted for a period in excess of 35 years and no franchise shall be granted unless the city receives just and adequate compensation therefor. The city council shall provide for the registration of all franchises with the city clerk in a registration book kept by the clerk. The city council may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

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

SECTION 6.15.

Service charges.

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

SECTION 6.16.

Special assessments.

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

SECTION 6.17.

Construction; other taxes and fees.

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

SECTION 6.18.

Collection of delinquent taxes and fees.

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

SECTION 6.19.

General obligation bonds.

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

SECTION 6.20.

Revenue bonds.

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

SECTION 6.21.

Short-term loans.

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

SECTION 6.22.

Lease purchase contracts.

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

SECTION 6.23.

Fiscal year.

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

SECTION 6.24.

Preparation of budgets.

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

SECTION 6.25.

Submission of operating budget to city council.

On or before a date fixed by the city council but not later than 60 days prior to the beginning of each fiscal year, the mayor shall submit to the city council a proposed operating budget for the ensuing fiscal year. The budget shall be accompanied by a message from the mayor containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget, and other pertinent comments and information. The operating budget and the capital budget hereinafter provided for, the budget message, and all supporting documents shall be filed in the office of the city clerk and shall be open to public inspection.

SECTION 6.26.

Action by city council on budget.

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

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

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

SECTION 6.27.

Tax levies.

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

SECTION 6.28.

Changes in appropriations.

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

such purpose, but any additional appropriations may be made only from an existing unexpended surplus.

SECTION 6.29.

Capital budget.

(a) On or before the date fixed by the city council but no later than 60 days prior to the beginning of each fiscal year, the mayor shall submit to the city council a proposed capital improvements plan with a recommended capital budget containing the means of financing the improvements proposed for the ensuing fiscal year. The city council shall have power to accept, with or without amendments, or reject the proposed plan and proposed budget. The city council shall not authorize an expenditure for the construction of any building, structure, work, or improvement unless the appropriations for such project are included in the capital budget, except to meet a public emergency as provided in Section 2.24.

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

SECTION 6.30.

Independent

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

SECTION 6.31.

Contracting procedures.

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

(a) In writing;

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

(c) Made or authorized by the city council and such approval is entered in the city council journal of proceedings pursuant to Section 2.21; and

(d) Signed by the mayor or the mayor pro tem.

SECTION 6.32.

Centralized purchasing.

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

SECTION 6.33.

Sale and lease of city property.

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

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

(c) Whenever in opening, extending or widening any street, avenue, alley, or public place of the city, a small parcel or tract of land is cut off or separated by such work from a larger tract or boundary of land owned by the city, the city council, may authorize the mayor to sell and convey said cut-off or separated parcel or tract of land to an abutting or adjoining property owner or owners where such sale and conveyance facilitates the enjoyment of the highest and best use of the abutting owner´s property. Included in the sales contract shall be a provision for the rights of way of said street, avenue, alley, or public place. Each abutting property owner shall be notified of the availability of the property and given the opportunity to purchase said property under such terms and conditions as set out by ordinance. All deeds and conveyances heretofore and hereafter so executed and delivered shall convey all title and interest the city has in such property notwithstanding the fact that no public sale after advertisement was or is hereafter made.

ARTICLE VII

GENERAL PROVISIONS

SECTION 7.10.

Bonds for officials.

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

SECTION 7.11.

Existing ordinances, resolutions, rules, and regulations.

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

SECTION 7.12.

Existing personnel and officers.

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

SECTION 7.13.

Pending matters.

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

SECTION 7.14.

Construction.

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

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

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

SECTION 7.15.

Severability.

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

SECTION 7.16.

Specific repealer.

An Act incorporating the Town of Higgston in the County of Montgomery, approved August 17, 1903 (Ga.L.1903, p.531), is hereby repealed in its entirety and all amendatory Acts thereto are likewise repealed in their entirety. All other laws and parts of laws in conflict with this charter are hereby repealed.

SECTION 7.17.

Effective date.

This charter shall become effective on July 1, 2001.

SECTION 7.18

General Repealer

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