House Bill 721 (AS PASSED HOUSE AND SENATE)

By: Representative Keown of the 173rd

A BILL TO BE ENTITLED

AN ACT

To provide a new charter for the Town of Ochlocknee; to provide for incorporation, boundaries, and powers of the town; to provide for a governing authority of such town and the powers, duties, authority, election, terms, vacancies, compensation, expenses, qualifications, prohibitions, conflicts of interest, and suspension and removal from office relative to members of such governing authority; to provide for inquiries and investigations; to provide for oaths, organization, meetings, quorum, voting, rules, and procedures; to provide for ordinances and codes; to provide for a mayor and mayor pro tempore and certain duties, powers, and other matters relative thereto; to provide for administrative affairs and responsibilities; to provide for boards, commissions, and authorities; to provide for a town attorney, a town clerk, and other personnel and matters relating thereto; to provide for rules and regulations; to provide for a municipal court and the judge or judges thereof and other matters relative to those judges; to provide for the court's jurisdiction, powers, practices, and procedures; to provide for the right of certiorari; to provide for elections; to provide for taxation, licenses, and fees; to provide for franchises, service charges, and assessments; to provide for bonded and other indebtedness; to provide for auditing, accounting, budgeting, and appropriations; to provide for town contracts and purchasing; to provide for the conveyance of property and interests therein; to provide for bonds for officials; to provide for prior ordinances and rules, pending matters, and existing personnel; to provide for penalties; to provide for definitions and construction; to provide for other matters relative to the foregoing; to repeal a specific Act; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I

INCORPORATION AND POWERS

SECTION 1.10.

Name.

The Town of Ochlocknee, in Thomas County, Georgia, is reincorporated by the enactment of this charter and is constituted and declared a body politic and corporate under the name and style Town of Ochlocknee, Georgia, and by that name shall have perpetual succession.

SECTION 1.11.

Corporate boundaries.

(a) The boundaries of this town shall be those existing on July 2, 2009, with such alterations as may be made from time to time in the manner provided by law. The boundaries of this town at all times shall be shown on a map, a written description, or any combination thereof, to be retained permanently in the Town of Ochlocknee Town Hall and to be designated, as the case may be: "Official Map of the corporate limits of the Town of Ochlocknee, Georgia." Photographic, typed, or other copies of such map or description certified by the town clerk shall be admitted as evidence in all courts and shall have the same force and effect as with the original map or description.

(b) The town 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 town 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 town shall have all the powers of self-government not otherwise prohibited by this charter or by general law.

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

(1) Animal regulations. To regulate and license or to prohibit the keeping or running at large of animals and fowl and to provide for the impoundment of same if in violation of

any ordinance or lawful order; to provide for the disposition by sale, gift, or humane destruction of animals and fowl when not redeemed as provided by ordinance; and to provide punishment for violation of ordinances enacted under this charter;

(2) Appropriations and expenditures. To make appropriations for the support of the government of the town; 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 town;

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

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

(5) Condemnation. To condemn property, inside or outside the corporate limits of the town, 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 now or may hereafter be enacted;

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

(7) Emergencies. To establish procedures for determining and proclaiming that an emergency situation exists within or outside the town 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 town;

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

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

(10) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection and disposal and other sanitary service charge, tax, or fee for such services as may be

necessary in the operation of the town from all individuals, firms, and corporations residing in or doing business in the town benefiting from such services; to enforce the payment of such charges, taxes, or fees; and to provide for the manner and method of collecting such service charges;

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

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

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

(14) Jail sentences. To provide that persons given jail sentences in the municipal court may work out such sentences in any public works or on the streets, roads, drains, and other public property in the town; 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;

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

(16) Municipal agencies and delegation of power. To create, alter, or abolish departments, boards, offices, commissions, and agencies of the town and to confer upon such agencies the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same;

(17) Municipal debts. To appropriate and borrow money for the payment of debts of the town 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;

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

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

(20) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose of public utilities, including but not limited to a system of waterworks, sewers and drains, sewage disposal, gas works, electric light plants, cable television and other

telecommunications, transportation facilities, public airports, and any other public utility; and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties and to provide for the withdrawal of service for refusal or failure to pay the same;

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

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

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

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

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

(26) Public improvements. To provide for the acquisition, construction, building, operation, and maintenance of public ways, parks and playgrounds, public grounds, recreational facilities, cemeteries, markets and market houses, public buildings, libraries, sewers, drains, sewage treatment, waterworks, electrical systems, gas systems, other public utilities, public housing, airports, hospitals, terminals, docks, parking facilities, and 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 town; to regulate the use of public improvements; and, for such purposes, property may be acquired by condemnation under Title 22 of the O.C.G.A. or such other applicable laws as are now or may hereafter be enacted;

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

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

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

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

and all other structures or obstructions upon or adjacent to the rights of way of streets and roads or within view thereof, within or abutting the corporate limits of the town; and to prescribe penalties and punishment for violation of such ordinances;

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

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

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

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

(35) Special areas of public regulation. To regulate or prohibit junk dealers, pawn shops, the manufacture, sale, or transportation of any intoxicating liquors or alcoholic beverages, 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;

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

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

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

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

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

(41) Other powers. To exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the town 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 in this charter; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia; and no listing of particular powers in this charter shall be held to be exclusive of others, nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

SECTION 1.13.

Exercise of powers.

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

ARTICLE II

GOVERNMENT STRUCTURE

SECTION 2.10.

Town council creation; number; election.

The legislative authority of the government of this town, except as otherwise specifically provided in this charter, shall be vested in a town council to be composed of four councilmembers. The councilmembers shall be elected in the manner provided by this charter.

SECTION 2.11.

Town councilmembers;
terms and qualifications for office.

The members of the town 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 town for 12 months prior to the date of the election of mayor or members of the town council; each shall continue to reside therein during that person's period of service and to be registered and qualified to vote in municipal elections of this town.

SECTION 2.12.

Vacancy; filling of vacancies; suspensions.

(a) Vacancies – The office of mayor or councilmember shall become vacant upon such person's failing or ceasing to reside in the town or upon the occurrence of any event specified by the Constitution, Title 45 of the O.C.G.A., or such other applicable laws as are or may hereafter be enacted; provided, however, the office of mayor or councilmember shall become vacant upon the unexcused absence of the holder of the office from four consecutive regularly scheduled meetings of the town council. Excused absences shall be granted by a majority vote of the remaining town councilmembers and the mayor as provided in Section 2.21 of this charter and shall be entered upon the minutes of the council meeting.

(b) Filling of vacancies – A vacancy in the office of councilmember shall be filled for the remainder of the unexpired term, if any, by appointment by the remaining councilmembers. A vacancy in the office of mayor shall be filled by the mayor pro tempore. The council shall appoint a council member to serve the remainder of the unexpired term of the position vacated by the mayor pro tempore.

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.

Conflicts of interest.

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

(b) Neither the mayor nor any member of the town 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 town council may make inquiries and investigations into the affairs of the town and 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 town council shall be punished as may be provided by ordinance.

SECTION 2.16.

General power and authority of the town council.

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

SECTION 2.17.

Eminent domain.

The town council is 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 facilities and any other public improvements inside or outside the town 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 town council shall hold an organizational meeting on the first meeting in January following election as provided in Section 5.11 of this charter. The meeting shall be called to order by the town clerk and the oath of office shall be administered to the newly elected members as follows:

"I _____ do solemnly swear or affirm that I will properly perform the duties of the office of_____ in and for the Town of Ochlocknee, to the best of my knowledge, skill, and ability; that I am not the holder of any unaccounted for public money due to the State of Georgia or any political subdivision or authority thereof; that I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state, which I am by the laws of the State of Georgia prohibited from holding; that I am qualified to hold the office which I am about to enter according to the Constitution and laws of Georgia; that I will support the Constitutions of the United States and the State of Georgia; that I have been a resident of the Town of Ochlocknee for the time required by the Constitution and laws of the State of Georgia and the Charter of the Town of Ochlocknee, so help me God."

SECTION 2.19.

Meetings.

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

(b) Special meetings of the town council may be held on call of the mayor or two members of the town council. Notice of such special meeting shall be served on all other members personally, or by telephone personally, at least 24 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 town council shall be public to the extent required by law, and notice to the public of special meetings shall be made as 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 town council shall adopt its rules of procedure and order of business consistent with the provisions of this charter and shall provide for keeping of a journal of its proceedings, which shall be a public record.

(b) All committees and committee chairpersons and officers of the town 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.

Three councilmembers or two councilmembers and the mayor shall constitute a quorum and shall be authorized to transact business of the town council. Voting on the adoption of ordinances shall be by voice vote and the vote shall be recorded in the journal, but any councilmember 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 and in the form required for final adoption. 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 Town of Ochlocknee..." 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 town council. Ordinances shall be considered and adopted or rejected by the town council in accordance with the rules which it shall establish; provided, however, an ordinance shall not be adopted the same day it is introduced, except for emergency ordinances provided for in Section 2.24 of this charter. Upon introduction of any ordinance, the town clerk shall as soon as possible distribute a copy to the mayor and to each councilmember and shall file a reasonable number of copies in the office of the town clerk and at such other public places as the town council may designate.

SECTION 2.23.

Action requiring an ordinance.

Acts of the town 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 town council may convene on call of the mayor or three councilmembers and may 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 three 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 is 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 town council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such adopting ordinance shall be as prescribed for ordinances generally except that: (1) the requirements of subsection (b) of Section 2.22 of this charter for distribution and filing of copies of the

ordinance shall be construed to include copies of any code of technical regulations, as well as the adopting ordinance; and (2) a copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the town clerk pursuant to Section 2.26 of this charter.

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

SECTION 2.26.

Signing; authenticating; recording; codification; printing.

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

(b) The town council shall provide for the preparation of a general codification of all the ordinances of the town having the force and effect of law. The general codification shall be adopted by the town 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 town council may specify. This compilation shall be known and cited officially as "The Code of the Town of Ochlocknee, Georgia." Copies of the code shall be furnished to all officers, departments, and agencies of the town and made available for purchase by the public at a reasonable price as fixed by the town council.

(c) The town 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 town council. Following publication of the first code under this charter and at all times thereafter, the ordinances and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for incorporation therein. The town 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.

Chief executive officer; delegation of powers.

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

SECTION 2.28.

Powers and duties of mayor.

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

(1) See that all laws and ordinances of the town are faithfully executed;

(2) Exercise supervision over all executive and administrative work of the town and over all employees and departments of the town and provide for the coordination of administrative activities;

(3) Prepare and submit to the town council a recommended operating budget;

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

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

(6) Call special meetings of the town council as provided for in subsection (b) of Section 2.19 of this charter;

(7) Preside at all meetings of the town council and vote only in the event of a tie or when an affirmative or negative vote by the mayor constitutes a majority of three votes;

(8) Provide for an annual audit of all accounts of the town;

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

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

SECTION 2.29.

Mayor pro tempore; selection; duties.

By a majority vote, the town council shall elect a councilmember to serve as mayor pro tempore. In the mayor's absence, the mayor pro tempore shall preside at meetings of the town council and shall assume the duties and powers of the mayor upon the mayor's physical or mental disability, provided that the mayor pro tempore shall vote as a member of the town council at all times when serving as provided in this section.

ARTICLE III

ADMINISTRATIVE AFFAIRS

SECTION 3.10.

Administrative and service departments.

(a) Except as otherwise provided in this charter, the town 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 town as necessary for the proper administration of the affairs and government of this town.

(b) Except as otherwise provided by this charter or by law, the directors of departments and other appointed officers of the town 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 town 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 town council shall create by ordinance such boards, commissions, and authorities to fulfill any investigative, quasi-judicial, or quasi-legislative function the town 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 town shall be appointed by the town council for such terms of office and in such 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 town 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 town.

(e) Any vacancy on a board, commission, or authority of the town shall be filled for the unexpired term in the manner prescribed in this charter 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 town an oath obligating that person to perform faithfully and impartially the duties of that person's office, such oath shall be prescribed by ordinance and administered by the mayor.

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

(h) Except as otherwise provided by this charter or by law, each board, commission, or authority of the town shall elect one of its members as chairperson and one member as vice chairperson and may elect as its secretary one of its own members or may appoint as secretary an employee of the town. Each board, commission, or authority of the town government may establish such bylaws, rules, and regulations, not inconsistent with this charter, ordinances of the town, 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 town.

SECTION 3.12.

Town attorney.

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

SECTION 3.13.

Town clerk.

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

SECTION 3.14.

Position classification and pay plans.

The town council shall be responsible for the preparation of a position classification and pay plan which shall be submitted to the town council for approval. Such plan may apply to all employees of the town and any of its agencies, departments, boards, commissions, or authorities. When a pay plan has been adopted, the town 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 town officials are not town employees.

SECTION 3.15.

Personnel policies.

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

ARTICLE IV

JUDICIAL BRANCH

SECTION 4.10.

Creation; name.

There shall be a court to be known as the Municipal Court of the Town of Ochlocknee.

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 and 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 town 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 town council unless otherwise provided by ordinance.

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

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 town 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 $500.00 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 180 days 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 such 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, that person's bond shall be forfeited by the judge presiding at such time and an execution issued thereon by serving the defendant and the 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 town, 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 town property taxes.

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

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

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

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 Thomas 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 town 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 town 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 town 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 such proceedings.

SECTION 4.16.

Indigent defense and prosecutor.

The mayor and council shall have the power:

(1)(A) To provide for a system of defense for indigent persons charged in the Municipal Court of the Town of Ochlocknee with violations of ordinances; and

(B) To provide for the prosecution of such cases by a prosecutor;

(2) To provide for and require the expense of such defense and prosecution to be prorated over all criminal cases disposed of by the court; and

(3) To provide that all bond forfeitures collected from all criminal cases heard before the municipal court shall be collected by the court in addition to all other fines, penalties, or other costs.

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.

Regular elections; time for holding.

Elections for mayor and town council shall be held on the Tuesday following the first Monday in November of each election year. The mayor and two councilmembers shall be elected in the election held on the Tuesday following the first Monday in November of 2009 for an initial term of two years and their successors shall serve for terms of four years thereafter. Two councilmembers shall be elected in the election held on the Tuesday following the first Monday in November of 2009 and serve for a term of four years and their

successors shall serve for terms of four years thereafter. Notwithstanding the provisions of this section the mayor and councilmembers shall serve for regular terms of four years.

SECTION 5.12.

Nonpartisan elections.

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

SECTION 5.13.

Election by plurality vote.

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

SECTION 5.14.

Other provisions.

Except as otherwise provided by this charter, the town council shall, by ordinance, prescribe such rules and regulations as 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 5.15.

Removal of officers.

(a) A councilmember, the mayor, 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 shall render a decision. In the event an elected officer is sought to be removed by the action of the town 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 town 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 provided in this section shall have the right of appeal from the decision of the town

council to the Superior Court of Thomas County. Such appeal shall be governed by the same rules as govern appeals to the superior court from the probate court; or

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

ARTICLE VI

FINANCE

SECTION 6.10.

Property tax.

The town council may assess, levy, and collect an ad valorem tax on all real and personal property within the corporate limits of the town 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 town government, of providing governmental services, for the repayment of principal and interest on general obligations, and for any other public purpose as determined by the town council in its discretion.

SECTION 6.11.

Millage rate; due dates; payment methods.

The town council by ordinance shall establish a millage rate for the town property tax, a due date, and the time period within which these taxes must be paid. The town 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 town council by ordinance shall have the power to levy such occupation or business taxes as are not denied by law. The town 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 of this charter.

SECTION 6.13.

Licenses; permits; fees.

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

SECTION 6.14.

Franchises.

(a) The town council shall have the power to grant franchises for the use of this town'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 town 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 town receives just and adequate compensation therefor. The town council shall provide for the registration of all franchises with the town clerk in a registration book kept by the town clerk. The town 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 town council has the authority to impose a tax on gross receipts for the use of this town'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 town 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 within and outside the corporate limits of the town for the total cost to the town of providing or making available such services. If unpaid, such charges shall be collected as provided in Section 6.18 of this charter.

SECTION 6.16.

Special assessments.

The town 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 of this charter.

SECTION 6.17.

Construction; other taxes.

This town 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 town to govern its local affairs.

SECTION 6.18.

Collection of delinquent taxes and fees.

The town council by ordinance may provide generally for the collection of delinquent taxes, fees, or other revenue due the town under Sections 6.10 through 6.17 of this charter 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. fas.; creation and priority of liens; making delinquent taxes and fees personal debts of the persons required to pay the taxes or fees imposed; revoking town permits for failure to pay any town taxes or fees; and providing for the assignment or transfer of tax executions.

SECTION 6.19.

General obligation bonds.

The town 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 such issue is undertaken.

SECTION 6.20.

Revenue bonds.

Revenue bonds may be issued by the town 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 town 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 town may enter into multiyear lease, purchase, or lease-purchase contracts for the acquisition 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 Code 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 town 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 town government.

SECTION 6.24.

Budget ordinance.

The town council shall provide an ordinance on the procedures and requirements for the preparation and execution of an annual operating budget, including requirements as to the

scope, content, and form of such budgets and plans. The town council shall also comply with the budgeting and auditing provisions of Chapter 81 of Title 36 of the O.C.G.A.

SECTION 6.25.

Operating budget.

On or before a date fixed by the town council but not later than 60 days prior to the beginning of each fiscal year, the mayor shall submit to the town 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 town, 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, the budget message, and all supporting documents shall be filed in the office of the town clerk and shall be open to public inspection.

SECTION 6.26.

Action by town council on budget.

(a) The councilmembers 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. The total appropriations from any fund shall not exceed the estimated fund balance, reserves, and revenues.

(b) The town council by ordinance shall adopt the final operating budget for the ensuing fiscal year not later than the first day of the fiscal year. If the town council fails to adopt the budget by said date, the amounts appropriated for operation for the then current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly, until such time as the town 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 of this charter.

(c) The amount set out in the adopted operating budget for each organizational unit shall constitute the annual appropriation for such, and no expenditure 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.

Levy of taxes.

The town 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 town.

SECTION 6.28.

Changes in appropriations.

The town 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.

Audits.

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

SECTION 6.30.

Procurement and property management.

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

(1) It is in writing;

(2) It is drawn by or submitted and reviewed by the town attorney and, as a matter of course, is signed by the town attorney to indicate such drafting or review; and

(3) It is made or authorized by the town council and such approval is entered in the town council journal of proceedings pursuant to Section 2.20 of this charter.

SECTION 6.31.

Purchasing.

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

SECTION 6.32.

Sale and lease of property.

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

(b) The town 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 town has no readily ascertainable monetary value.

(c) Whenever in opening, extending, or widening any street, avenue, alley, or public place of the town 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 town, the town 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 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 town 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 this town, both elected and appointed, shall execute such surety or fidelity bonds in such amounts and upon such terms and conditions as the town council shall from time to time require by ordinance or as may be provided by law.

SECTION 7.11.

Prior ordinances.

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

SECTION 7.12.

Existing personnel and officers.

Except as specifically provided otherwise by this charter, all personnel and officers of this town and their rights, privileges, and powers shall continue beyond the time this charter takes effect for a period of 180 days before or during which time the existing town 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 required 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 town agencies, personnel, or offices as may be provided by the town council.

SECTION 7.14.

Construction and definitions.

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

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

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

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

(1) "Town council" means the members of the town council and the mayor.

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

SECTION 7.15.

Specific repealer.

An Act incorporating the Town of Ochlocknee, approved August 22, 1909 (Ga. L. 1907, p. 854), is repealed in its entirety and all amendatory Acts thereto are likewise repealed in their entirety.

SECTION 7.16.

Effective date.

This Act shall become effective on July 1, 2009.

SECTION 7.17.

General repealer.

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