

House Bill 592

By: Representatives Gunter of the 8th and Wade of the 9th

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the City of Cleveland; to provide for incorporation, boundaries,
2 and powers of the city; to provide for the exercise of powers and limitations on powers; to
3 provide for a governing authority of such city and the powers, duties, authority, prohibitions,
4 elections, terms, removal from office, method of filling vacancies, compensation, expenses,
5 and qualifications of such authority; to provide for the office of mayor and certain duties and
6 powers relative to the office of mayor; to provide for conflict of interest and holding other
7 offices; to provide for inquiries and investigations; to provide for organization and meeting
8 procedures; to provide for ordinances; to provide for eminent domain; to provide for codes;
9 to provide for a mayor pro tem; to provide for a city manager and powers and duties thereof;
10 to provide for acting city managers; to provide for administrative responsibilities; to provide
11 for boards, commissions, and authorities; to provide for a city attorney, city clerk, and other
12 personnel; to provide for the establishment of a municipal court and the judge or judges
13 thereof; to provide for practices and procedures; to provide for taxation, permits, and fees;
14 to provide for franchises, service charges, and assessments; to provide for bonded and other
15 indebtedness; to provide for accounting and budgeting; to provide for contracting and
16 purchasing; to provide for sale of city property; to provide for bonds for officials; to provide
17 for pending matters; to provide for definitions and construction; to provide for severability;

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18 to provide for related matters; to repeal specific Acts; to repeal conflicting laws; and for other
19 purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **ARTICLE I**
22 **INCORPORATION AND POWERS**

23 **SECTION 1-1001.**
24 **Reincorporation.**

25 The City of Cleveland, in White County, and the inhabitants thereof, are reincorporated by
26 the enactment of this charter and are hereby constituted and declared a body politic and
27 corporate under the name and style of the City of Cleveland, Georgia, and by that name shall
28 have perpetual succession.

29 **SECTION 1-1002.**
30 **Corporate boundaries.**

31 (a) The corporate boundaries of this city shall be those existing on the effective date of the
32 adoption of this charter with such alterations as may be made from time to time in the
33 manner provided by law. The boundaries of this city at all times shall be shown on a map,
34 a written description, or any combination thereof, to be retained permanently in the office of
35 the city clerk and to be designated, as the case may be: "Official Map (or Description) of the
36 corporate limits of the City of Cleveland, Georgia, in White County, Georgia." Photographic,
37 typed, or other copies of such map or description certified by the city clerk shall be admitted

38 as evidence in all courts and shall have the same force and effect as with the original map or
39 description.

40 (b) All future alterations of said map or description, as directed by the council to reflect
41 lawful changes in the corporate boundaries, shall be signed by the mayor and city clerk. A
42 redrawn map or description shall supercede, for all purposes, the entire map or maps and
43 description or descriptions which it is designated to replace.

44 **SECTION 1-1003.**

45 General powers and construction.

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

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

53 **SECTION 1-1004.**

54 Examples of powers.

55 The corporate powers of the city shall include but not be limited to, the following:

56 (1) Alcoholic beverages - the keeping for sale, selling, or offering for sale of any
57 spirituous, vinous, malt, or fermented wines or liquors within the corporate limits of said
58 city shall be regulated by the city as provided by law. The city council shall have power
59 or authority to license the sale thereof, consistent with the laws of the State of Georgia, and

60 it shall be the council's duty to enforce this by the enactment of necessary ordinances with
61 suitable penalties for violation;

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

67 (3) Appropriations and expenditures - to make appropriations for the support of the
68 government of the city; to authorize the expenditure of money for any purposes authorized
69 by this charter and for any purpose for which a municipality is authorized by the laws of
70 the State of Georgia; and to provide for the payment of expenses of the city;

71 (4) Building regulation - to regulate and to license the erection and construction of
72 buildings and all other structures; to adopt building, housing, plumbing, fire safety,
73 electrical, gas, and heating and air conditioning codes; and to regulate all housing and
74 building trades;

75 (5) Business regulation and taxation - to levy and to provide for the collection of license
76 fees, permit fees and taxes on privileges, occupations, trades, and professions as authorized
77 by Title 48 of the O.C.G.A., or other such applicable laws as are or may hereafter be
78 enacted; to license, permit and regulate the same; to provide for the manner and method of
79 payment of such licenses, permits and taxes; and to revoke such permits after due process
80 for failure to pay any city taxes or fees or for violations of licensing regulations;

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

such cemeteries as established by the city by ordinance. The Georgia Board of Cemeterians, with the Georgia Secretary of State's office, is charged by law with regulating the practice of perpetual care cemeteries;

(7) Condemnation - to condemn property, inside or outside the corporate limits of the city or any combination thereof, for present or future use and for any corporate purpose deemed necessary by the governing authority, utilizing procedures enumerated in Title 22 or Title 32 of the O.C.G.A., or such other applicable laws as are or may hereafter be enacted;

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

(9) Emergencies - to establish procedures for determining and proclaiming that an emergency situation exists within or without 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;

(10) Environmental protection - to protect and preserve the natural resources, environment, and vital areas of the city, the region, and 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 stormwater and establishment of a stormwater utility, the management of solid and hazardous waste, and other necessary actions for the protection of the environment;

(11) Fire regulations - to fix and establish fire district 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 firefighting; and to prescribe penalties and punishment for violations thereof;

(12) 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 and with other such legal entities which may be recognized by Georgia law, including but not limited to authorities, trusts, partnerships, and limited partnerships residing in or doing business therein and benefiting from such services; to enforce the payment of such charges, taxes or fees; and to provide for the manner and method of collection;

(13) General health, safety, and welfare - to define, regulate, and prohibit any act or failure to act, practice, conduct, or use of property, or any combination thereof 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;

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

(15) Health and sanitation - to prescribe standards of health and sanitation and to provide for the enforcement of such standards;

(16) Illegal and immoral conduct - to suppress lewdness and immoral conduct, gambling, gambling houses, and gambling contrivances of any kind; blind tigers and places of illegal sale of liquors, wines, liquors or opiates of all kinds or nature; houses of ill fame, bawdy houses, lewd houses, and any premises where prostitution occurs;

(17) Motor vehicles - to regulate the operation of motor vehicles, and to exercise control over the movement and parking of such motor vehicles upon and across the streets, roads, designated private ways, alleys, walkways, and parks and the public square of the city;

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

(19) Municipal debts and issuance of bonds - to contract debts and issue bonds of said city as the valid obligations of said city, under and in accordance with the limitations provided in the Constitution and laws of said state, for the purpose of refunding valid and existing debts, establishing, improving, and maintaining a water supply system, any other public service or utility system, hospitals, or other public buildings, for the paving or otherwise improving of city streets or public places, and for any other improvement, convenience, or necessity for the use of said city or the citizens thereof, or for any other lawful purpose;

(20) Municipal property ownership - to purchase, hold, rent, lease, and receive by gift or otherwise, and to enjoy, possess, and retain, temporarily or permanently, any property, real or personal, of any kind whatsoever either within or without the corporate limits of said city, for corporate purposes;

(21) Municipal property protection - to provide for the preservation and protection of property, real and personal, and the administration and use of same by the public; and to prescribe penalties and punishment for violations thereof;

(22) Municipal utilities - to acquire, lease, construct, operate, maintain, sell, or dispose of, and any combination thereof, public utilities inside and outside the corporate limits of the city, including but not limited to systems of waterworks, water distribution, sewers and drains, sewage disposal, stormwater management, wells, including, but not limited to, wells located on private property and leased by the city; gas works; electric light plants; cable television and other telecommunications; transportation facilities; public airports; and any other public utility; to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties for such utilities inside and outside the city's corporate limits; and to provide for the withdrawal of service for refusal or failure to pay for any such utilities, regardless of whether such utilities are made available inside the city or outside the city, or inside and outside the city;

(23) Nuisance - to define a nuisance and provide for its abatement whether on public or private property;

(24) 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;

(25) 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 insure a safe, healthy, and aesthetically pleasing community;

(26) Police and fire protection - to exercise the power of arrest through duly appointed law enforcement officers, and to establish, operate, abolish or contract for, in any combination, a law enforcement agency. To exercise, establish, operate, abolish, or contract for, in any combination, a firefighting agency;

(27) Public hazard 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;

(28) 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 and 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;

(29) Public peace - to provide for the prevention and punishment of loitering, disorderly conduct, drunkenness, riots, and public disturbances;

(30) Public transportation - to organize and operate such public transportation systems as are deemed beneficial;

(31) Public utilities and services - to grant franchises to public utilities and public service companies, or make contracts with public utilities and public service corporations, or impose taxes on public utilities and public service companies, or any combination thereof;

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 public service commission;

(32) 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;

(33) Retirement - to provide and maintain a retirement plan and other employee benefit plans and programs for the elected officers of the city, the employees of the city, and for any such other appointed officers of the city which the city council may designate;

(34) 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; to authorize and control the construction of bridges, overpasses, and underpasses 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;

(35) Sentences - to provide that persons given 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 detention center, to provide for the use of pretrial diversion and any alternative sentencing allowed by law, or to provide for commitment of such persons to any detention center by agreement with the appropriate county officials;

(36) Sewer fees - to levy such fees, charges, and taxes as may be authorized by ordinance for the purpose of acquiring, constructing, equipping, operating, maintaining, and extending of sewage treatment plants and sewerage systems and to levy on those to whom

sewers and sewerage systems are made available such service fees, charges, and taxes and for enforcing payment of the same; and to charge, impose, and collect from those seeking service from such plants and systems, such connection fees or charges for the privilege of receiving service from such plants and systems as may be authorized by ordinance;

(37) 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;

(38) Special areas of public regulation - to regulate or prohibit junk dealers and pawn shops, the manufacture and sale of intoxicating liquors; 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, traveling carnivals, helicopter rides, hot air balloon rides, and shows of any kind, by taxation or otherwise; to license and tax professional fortunetelling, palmistry, and massage parlors; and to restrict adult bookstores, stores offering adult videos, and stores offering adult toys to certain areas;

(39) Special assessments - to levy and provide for the collection of special assessments to cover the costs for any public improvements;

(40) Taxes:

(A) Ad valorem taxation - to levy and provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation;

(B) Other taxation - to levy and collect such other taxes as may be allowed now or in the future by law;

(41) Trees - to adopt and enforce ordinances for the protection and preservation of trees on the streets, public places, cemeteries, new developments, parks, and public squares in the city and to prevent the cutting, impairing, or mutilations thereof by telephone, cable,

or electric light linemen or employees or any other person unless the same is done under and with the express and formal consent of the council or some other officer appointed by the council to direct the same and then only when absolutely necessary for the public service or safety;

(42) Urban redevelopment - to organize, operate, and abolish an urban redevelopment program and to define the area in which said program may operate;

(43) Vehicles for hire - 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; and

(44) 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 1-1005.

General police powers.

The mayor and council shall have full power and authority to pass, enact, and adopt any and all ordinances they deem necessary to protect the peace, comfort, health, prosperity, and

273 security of the city and its inhabitants, to foster good morals and virtues in said city, and to
274 suppress any and all acts against the peace and good order.

275 **SECTION 1-1006.**

276 Fire protection.

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

286 **SECTION 1-1007.**

287 Inquiries and investigations.

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

294 **SECTION 1-1008.**

295 Exercise of powers.

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

300 **SECTION 1-1009.**

301 Vesting of property owned at time of enactment.

302 The title to any property, real or personal, within or without the corporate limits of said city,
303 heretofore acquired by the City of Cleveland, with or without proper charter authority, is
304 hereby vested in the City of Cleveland created by this charter, the acquisition thereof being
305 hereby ratified and made lawful.

306 **SECTION 1-1010.**

307 Assumption of former debts.

308 The City of Cleveland created by this Act is hereby made responsible, as a body corporate,
309 for all legal undertakings, liabilities, and debts of the former City of Cleveland, whether for
310 principal and interest or outstanding bonds, or other contracts or indebtedness.

311 **ARTICLE II**
312 **CITY GOVERNMENT**

313 **SECTION 2-1001.**

314 Governing authority.

315 The municipal government of the city shall consist of a mayor and four council members,
316 and shall be known as the "Mayor and City Council of the City of Cleveland, Georgia." The
317 mayor and city council shall be the governing authority of the city and have all legislative
318 powers of the government of the city. The powers and authority of the mayor and city
319 council shall exercised in compliance with the provisions of this charter and as otherwise
320 authorized by the laws of the State of Georgia. The mayor and city council may also be
321 known as "the city council."

322 **SECTION 2-1002.**

323 Mayor and council; powers and duties of same.

324 (a) The mayor and council shall have full power and authority from time to time to make and
325 establish, enact and pass, such ordinances, laws, rules, regulations, and orders as may seem
326 right and proper, respecting all matters and things whatsoever that may by them be
327 considered necessary or proper or incident to good government of the city and to the peace,
328 security, health, happiness, welfare, protection or convenience of the inhabitants of said city,
329 and for preserving the peace and good order and dignity of the city. The mayor and council
330 shall have power to pass all ordinances, resolutions, rules, regulations, and orders as said
331 mayor and council shall deem necessary to govern the city. The mayor and council shall
332 have power and authority to suspend and remove all officers, agents, and employees of the

city and to fix the amount of all salaries and other compensation and benefits of such officers, agents, and employees of said city.

(b) The mayor shall be the chief executive of the city, and shall:

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

(2) Supervise all officers, agencies, and employees of the city and all work of the city;

(3) Call special meetings of the city council as provided for in Section 2-1011 of this charter;

(4) Preside at all meetings of the city council;

(5) Be the head of the city for the purpose of service of process and for ceremonial purposes, and be the official spokesperson for the city and the chief advocate of policy;

(6) Have power to administer oaths and to take affidavits;

(7) Sign on behalf of the city all written contracts, ordinances, and other instruments which have been approved by the council in accordance with the provisions of this charter and the ordinances adopted pursuant thereto;

(8) Exercise all powers of the city manager during all times in which said position is vacant and during all times when the city manager has been suspended by action of the council as more specifically provided in Section 2-1009; and

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

(c) Members of the council shall attend all regular and special meetings of the council, faithfully and diligently look after the affairs of the city; and attentively perform such services as may be required on committees and otherwise. In addition, the council shall have authority to enter into such contracts and obligations and to adopt such ordinances, resolutions, rules, and regulations not inconsistent with this charter, the Constitution, and the laws of the State of Georgia as it shall deem necessary, expedient, or helpful for the governance of the City of Cleveland and may provide for enforcement of such ordinances, resolutions, rules, and regulations by establishing the penalties for violations.

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SECTION 2-1003.

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Compensation and expenses.

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The mayor and councilmembers shall receive compensation, benefits, and expenses for their

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services as set by ordinance.

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SECTION 2-1004.

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Mayor; council; districts; election.

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(a) The municipal government of the City of Cleveland shall be vested in a mayor and four 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.

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

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(1) District No. 1 shall consist of that territory embraced and lying South of what is presently known as East Kytle Street and State Highway No. 115, and East of the centerline of what is presently known as the South Main Street and State Highway No. 11, embraced in the corporate limits of said city.

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(2) District No. 2 shall consist of that territory embraced and lying West of the centerline of what is presently known as South Main Street and State Highway No. 11 and south of the centerline what is presently known as West Kytle Street and State Highway No. 115, embraced in the corporate limits of said city.

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(3) District No. 3 shall consist of that territory embraced and lying North of the centerline of what is presently known as West Kytle Street and State Highway No. 115 and West of the centerline of what is presently known as North Main Street and State Highway No. 11,

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embraced in the corporate limits of said city. Said District No. 3 shall also include that part of the public square not included in the boundaries of any other district.

(4) District No. 4 shall consist of that territory embraced and lying East of the centerline of what is presently known as North Main Street and State Highway No. 11 and North of the centerline of what is known as East Kytile Street and State Highway No. 115, embraced in the corporate limits of said city.

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

SECTION 2-1005.

Mayor and councilmembers; terms; qualifications.

The mayor and councilmembers serving on the effective date of this charter shall serve until the expiration of the terms for which each was elected. Their successors shall be elected at the municipal election immediately preceding expiration of such term. 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. The mayor and each councilmember shall continue to reside within the city during the term for which elected and continue to be registered and qualified to vote in municipal elections of this city and each councilmember shall continue to reside within the district that such member represents during that member's period of service. No person shall be eligible to hold office of mayor or councilmember if convicted of any crime involving moral turpitude. No person shall be eligible to hold the office of mayor or councilman until having passed his or her 21st birthday.

SECTION 2-1006.

Organizational meeting; oath.

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

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

I, do swear (or affirm) that I am not the holder of any unaccounted for public money due this state 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 prohibited from holding by the laws of the State of Georgia; and that I am otherwise qualified to hold said office according to the Constitution of the United States and the Constitution and laws of the State of Georgia and that I will support the Constitution of the United States and this state."

SECTION 2-1007.

City manager; appointment; qualifications; compensation.

(a) The city council may appoint a city manager, also known as "the manager," for an indefinite term and shall set the manager's compensation. The manager shall be appointed solely on the basis of executive and administrative qualifications.

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

434 **SECTION 2-1008.**

435 Powers and duties of city manager.

436 The city manager, when duly appointed, and while acting as city manager, shall be the chief
437 administrative officer of the city. The manager shall be responsible to the mayor and city
438 council for the administration of all city affairs placed in the manager's charge by or under
439 this charter. The manager shall:

440 (1) Appoint and, when the manager deems it necessary for the good of the city, suspend
441 or remove all city employees and administrative officers the manager appoints, except as
442 otherwise provided by law or personnel ordinances adopted pursuant to this charter.
443 However, the mayor and council shall have sole power and authority to appoint, suspend,
444 supervise, remove, and to set the compensation of and the benefits of the city clerk, city
445 attorney, judge of the municipal court, city solicitor, and public defender of the municipal
446 court, engineer, and all department heads, and all members of boards, commissions, and
447 authorities that the mayor and council have created, or shall create, or of which the city is
448 a member.

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

451 (3) Direct and supervise all department heads of the city, but the mayor and council shall
452 have power and authority to suspend and remove all department heads of the city and to

- 453 fix the amount of all salaries and other compensation and benefits of such department
454 heads of said city.
- 455 (4) Attend all city council meetings except for closed meetings held for the purposes of
456 deliberating on the appointment, discipline, or removal of the city manager and have the
457 right to take part in discussion but not vote;
- 458 (5) See that all laws, provisions of this charter, and acts of the city council, subject to
459 enforcement by the manager or by officers subject to the manager's direction and
460 supervision, are faithfully executed;
- 461 (6) Prepare and submit the annual operating budget and capital budget to the city council;
- 462 (7) Submit to the city council and make available to the public a complete report on the
463 finances and administrative activities of the city as of the end of each fiscal year;
- 464 (8) Make such other reports as the city council may require concerning the operations of
465 city departments, offices and agencies subject to the manager's direction and supervision;
- 466 (9) Keep the city council fully advised as to the financial condition and future needs of the
467 city, and make such recommendations to the city council concerning the affairs of the city
468 as the manager deems desirable and as the mayor and council may require; and
- 469 (10) Perform other such duties as are specified in this charter or as may be required by the
470 city council.

471 **SECTION 2-1009.**

472 Removal of city manager.

473 The city council may suspend the manager from office for a period not to exceed 45 days,
474 or remove from office the manager, at any time and for any reason which the city council by
475 affirmative vote of the majority may determine, upon such terms and conditions as the city
476 council may determine; or, if the manager has a contract in place, the city council may refer
477 to the terms of the contract.

SECTION 2-1010.**Acting manager.**

(a) The city council shall have the power to appoint the mayor to serve as acting manager during the absence or disability of the manager or during such time as the position of manager is vacant, without limitation to the length of such appointment. For the purpose of this section, disability of the city manager shall include being suspended from his or her duties by the mayor and council.

(b) During any period that the mayor is appointed as and serves as acting city manager, the mayor shall continue to exercise all powers granted to him or her as mayor. The mayor shall not be entitled to receive the salary of the city manager for service as acting manager. In those instances in which the mayor has been appointed acting city manager, the mayor shall cease exercising the powers and duties of the city manager upon the earlier of:

(1) Appointment of a city manager; or

(2) Upon the revocation of said acting city manager's appointment by the council and appointment of a councilmember.

(c) If, in the discretion of the city council, the mayor is unable to fulfill the duties of the acting manager for any reason, the city council shall have the power to appoint a councilmember to serve as acting city manager. Such councilmember shall continue to exercise all powers granted to a councilmember during the period that he or she is serving as acting city manager. Said councilmember shall not be entitled to receive the salary of the manager while serving as acting manager. The city councilmember shall cease exercising the powers and duties of the city manager upon the earlier of:

(1) Appointment by the city council of a city manager; or

(2) Upon the revocation of said acting city manager's appointment by the city council and the appointment of another city councilmember to serve as acting manager.

503 (d) Any appointment of a city councilmember to serve as acting city manager shall be for
504 a period not to exceed six months.

505 (e) The acting city manager shall take the same oath as the city manager but need not furnish
506 a fidelity bond.

507 (f) Any reference in this charter to the city manager shall mean and include the acting city
508 manager.

509 **SECTION 2-1011.**

510 Mayor pro tem; selection; duties.

511 At its organizational meeting each year, by a majority vote, the city council shall elect a
512 councilmember to serve as mayor pro tem. The mayor pro tem shall preside at all meetings
513 of the city council when the mayor is absent. The city council by a majority vote shall elect
514 a new presiding officer from among its members for any period in which the mayor pro tem
515 is disabled, absent, or acting as mayor. Any such absence or disability shall be declared by
516 majority vote of all councilmembers. When serving as mayor, the mayor pro tem shall not
517 vote as a member of the council, except in order to break a tie.

518 **SECTION 2-1012.**

519 Regular, special, and emergency meetings.

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

522 (b) Special meetings of the city council may be held on call of the mayor or three
523 councilmembers. Notice of such special meetings shall be served on all other members
524 personally, or by telephone personally, at least 24 hours in advance of the meeting. Such
525 notice to councilmembers shall not be required if the mayor and all councilmembers are

526 present when the special meeting is called. Such notice of any special meeting may be
527 waived by a councilmember in writing before or after such a meeting, and attendance at the
528 meeting shall also constitute a waiver of notice on any business transacted in such
529 councilmembers presence. Only the business stated in the call may be transacted at the
530 special meeting.

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

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

546 **SECTION 2-1013.**

547 Quorum; voting.

548 (a) Two council members and the mayor (three persons) shall constitute a quorum. In the
549 event that the mayor is absent, a quorum shall consist of two councilmembers and the mayor
550 pro-tem (three persons).

551 (b) The affirmative vote of at least two councilmembers and the mayor is required to
552 conduct official business, and in the absence of the mayor, the affirmative vote of two
553 councilmembers and the mayor pro-tem is required to conduct business; provided, however,
554 that in the event of a vacancy on the council, the affirmative vote of a majority of the
555 remaining members of the council shall be sufficient to conduct business. Voting on the
556 adoption of ordinances shall be by voice vote and the vote shall be recorded in the minute
557 book or journal, but any councilmember shall have the right to request a roll call vote and
558 such vote shall be recorded in the minute book or journal. All votes required by state law to
559 be conducted by roll call must be so conducted and recorded.

560 (c) Under circumstances necessitated by emergency conditions involving public safety or
561 the preservation of property or public services, the council may meet by means of
562 teleconference so long as the notice required by Section 2-1012 is provided and means are
563 afforded for the public to have simultaneous access to the teleconference meeting. On any
564 other occasion of a council meeting, and so long as a quorum is present in person, the mayor
565 or a councilmember may participate by teleconference if necessary due to reasons of health
566 or absence from the city so long as notice is provided and public access is provided. Absent
567 emergency conditions or the written opinion of a physician or other health professional that
568 reasons of health prevent the mayor's or a councilmember's physical presence, the mayor or
569 a councilmember shall not participate by teleconference pursuant to this subsection more
570 than twice in one calendar year.

571 (d) An abstention by any member of council shall be noted on the record but shall not be
572 counted as an affirmative or negative vote.

573 **SECTION 2-1014.**

574 Rules of procedure.

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

578 (b) The mayor shall have the power and authority to appoint ad hoc or temporary
579 committees made up of councilmembers, city employees, and other persons serving the city
580 at the pleasure of the mayor and council, in any combination thereof, for the purpose of
581 assisting the mayor in the exercise of his or her duties as mayor and, in the event that the
582 mayor is appointed as acting city manager, for the purpose of assisting the mayor while
583 acting in such capacity. The members of such committees shall serve at the pleasure of the
584 mayor. The mayor shall have the power to appoint new members to any committee at any
585 time.

586 **SECTION 2-1015.**

587 Ordinance form; procedures.

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

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

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SECTION 2-1016.

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Action requiring an ordinance.

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

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SECTION 2-1017.

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Codes of technical regulations.

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(a) The city 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:

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(1) The requirements of Section 2-2014(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; provided, however, that the mayor and councilmembers may waive their right to automatically receive copies of the technical regulations adopted by the city and instead elect to receive from the clerk such copies of said technical regulations as each may individually request from time to time; and

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(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 2-1019.

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

617

SECTION 2-1018.

618

Voting by mayor and council; signing of ordinances.

619 (a) The mayor shall not vote on any question except in case of a tie among the members of
620 the council casting votes. No ordinance or resolution adopted by the council shall become
621 effective until the same shall have been approved by the mayor, unless the mayor shall fail
622 within three days from its passage to file with the clerk of council his or her reasons for
623 refusing to approve said ordinance or resolution. Upon the mayor filing his or her reasons
624 for not approving the same, a meeting of the council shall be called for such time as may be
625 requested by a majority of the council at which the clerk shall read the order of the mayor
626 refusing to approve such ordinance or resolution. A majority of the council may pass the
627 ordinance or resolution without approval of the mayor. In the event that no special meeting
628 is called, the clerk shall read the order refusing to approve any ordinance or resolution at the
629 next regular meeting of the council, which may then pass the ordinance or resolution as
630 provided above.

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

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

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SECTION 2-1019.

641

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

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(a) The city clerk, also known as "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. The codification maintained by such codification service with which the city may have contracted for ordinance codification services shall be a permissible substitute for such properly indexed book.

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(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 Cleveland, Georgia." 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.

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(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 suitable in form 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.

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

SECTION 2-1020.**Conflicts of interest; holding other offices.**

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

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

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

(3) Disclose confidential information, including information obtained at meetings which are closed pursuant to Chapter 14 of Title 50 of the O.C.G.A., concerning the property, government, or affairs of the governmental body by which the official is engaged without proper legal authorization; or use such information to advance the financial or other private interest of the official or others;

(4) Accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm or corporation which to the official's knowledge is interested, directly or indirectly, in any manner whatsoever, in business dealings with the governmental body by which the official is engaged; provided, however, that an elected official who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;

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

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

692 (b) Any elected official, appointed officer, or employee who shall have any financial
693 interest, directly or indirectly, in any contract or matter pending before or within any
694 department of the city shall disclose such interest to the city council. The mayor or any
695 councilmember who has a financial interest in any matter pending before the city council
696 shall disclose such interest and such disclosure shall be entered on the records of the city
697 council, and that official shall disqualify himself or herself from participating in any decision
698 or vote relating thereto. Any elected official, appointed officer, or employee of any agency
699 or political entity to which this charter applies who shall have any financial interest, directly
700 or indirectly, in any contract or matter pending before or within such entity shall disclose
701 such interest to the governing body of such agency or entity.

702 (c) No elected official, appointed officer, or employee of the city or any agency or entity to
703 which this charter applies shall use property owned by such governmental entity for personal
704 benefit or profit but shall use such property only in their capacity as an officer or employee
705 of the city.

706 (d) Any material violation of this section which occurs with the knowledge, express or
707 implied, of an elected official, officer, or employee of the city who is a party to a contract
708 with the city shall render said contract voidable at the option of the city council.

709 (e) Except where authorized by law, neither the mayor nor any councilmember shall hold
710 any other elective or appointive office in the city or otherwise be employed by said
711 government or any agency thereof during the term for which that official was elected. No
712 former mayor and no former councilmember shall hold any appointive office in the city until
713 one year after the expiration of the term for which that official was elected.

714 (f) No appointive officer or employee of the city shall continue in such employment upon
715 qualifying as a candidate for nomination or election to any full-time public office. No
716 employee of the city shall continue in such employment upon qualifying for or election to

717 any public office in this city or any other full-time public office which is inconsistent,
718 incompatible, or in conflict with the duties of the city employee. Such determination shall
719 be made by the mayor and council either immediately upon election or at any time such
720 conflict may arise.

721 **ARTICLE III**

722 **ADMINISTRATIVE AFFAIRS**

723 **SECTION 3-1001.**

724 Administrative and service departments.

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

729 (b) However, the mayor and council shall have sole power and authority to appoint, suspend,
730 supervise, remove, and to set the compensation of and the benefits of the city clerk, city
731 attorney, judge of the municipal court, city solicitor, and public defender of the municipal
732 court, engineer, and all department heads, and all members of boards, commissions, and
733 authorities that the mayor and council have created, or shall create, or of which the city is a
734 member.

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

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

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

747 (f) All persons under the supervision of the city manager, excluding those persons, legal or
748 natural, which are identified in subsection (b) of this section, shall be nominated by the city
749 manager with confirmation of appointment by the city council. If the manager or acting
750 manager fails to make a nomination for a vacant position, the council shall be authorized to
751 select such officers or directors. All appointive officers, excluding those persons (legal or
752 natural) which are identified in subsection (b) of this section, shall be employees at will and
753 subject to removal or suspension at any time by the city manager unless otherwise
754 determined by the mayor and city council. The city manager and those persons, legal or
755 natural, who are identified in subsection (b) of this section shall serve at the pleasure of the
756 mayor and council and be deemed employees at will, unless otherwise provided in written
757 agreements between such persons and the mayor and council.

758 (g) The mayor and council may from time to time adopt ordinances which authorize the city
759 manager to appoint, suspend, supervise, remove, set the compensation of, or set the benefits
760 of, or any combination of such actions, the following: the city attorney, judge of the
761 municipal court, city clerk, fire chief, police chief, engineer, building inspector, ordinance
762 enforcement officer, finance officer, city solicitor, municipal court public defender, and all
763 department heads, and all members of boards, commissions, and authorities that the mayor
764 and council may have created, shall create, or of which the city is a member, or any
765 condemnation thereof, for such limited periods of time which said mayor and council may
766 determine; and the mayor and council may from time to time adopt ordinances withdrawing
767 any and all such authorizations give to said city manager.

SECTION 3-1002.**Boards, commissions, and authorities.**

(a) The mayor and 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 mayor and city 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 mayor and 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.

(e) Any vacancy on a board, commission or authority of the city 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 such member 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 the city council unless otherwise provided by law. The number of votes required to remove a board member shall be set by ordinance.

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

801 **ARTICLE IV**
802 **ELECTIONS AND REMOVAL**

803 **SECTION 4-1001.**
804 **Applicability of general law.**

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

807 **SECTION 4-1002.**
808 **Election of the city council and mayor.**

809 (a) There shall be a municipal general election biennially in odd-numbered years on the
810 Tuesday next following the first Monday in November.
811 (b) The mayor and two councilmembers shall be elected at one election and every four years
812 thereafter. The remaining two city council seats shall be elected at the election alternating
813 with the first election and every four years thereafter so that a continuing body is created.
814 Terms shall be for four years.

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

818 **SECTION 4-1003.**
819 Nonpartisan elections.

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

822 **SECTION 4-1004.**
823 Vacancy; filling of vacancies.

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

826 (b) A vacancy in the office of mayor or councilmember shall be filled for the remainder of
827 the unexpired term, if any, by appointment by the city council or those members remaining
828 if less than six months remains in the unexpired term. If such vacancy occurs six months or
829 more prior to the expiration of the term of that office, it shall be filled for the remainder of
830 the unexpired term by a special election, in accordance with O.C.G.A. Titles 21 and 45, or
831 other such laws as are or may hereafter be enacted.

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

834 **ARTICLE V**
835 **ADMINISTRATIVE OFFICERS**

836 **SECTION 5-1001.**
837 City clerk.

838 (a) The mayor and city council shall appoint a city clerk, also known as "the clerk," who
839 shall not be a councilmember. The city clerk shall be custodian of the official city seal and
840 city records; maintain city council records required by this charter; and perform such other
841 duties as may be required by the city council.

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

849 **SECTION 5-1002.**
850 City attorney.

851 (a) The city council shall appoint a city attorney and shall provide for the payment of such
852 attorney for services rendered to the city. The city attorney shall be a member in good
853 standing with the State Bar of Georgia. The city attorney shall be responsible for providing
854 for the representation and defense of the city in all litigation in which the city is a party; shall
855 review such ordinances as may be required by the council; may be the prosecuting officer
856 in the municipal court when requested by the mayor or directed by the council; shall attend

857 the meetings of the council as directed; shall advise the city council, mayor, and other
858 officers and employees of the city concerning legal aspects of the city's affairs; and shall
859 perform such other duties as may be required by virtue of the person's position as city
860 attorney.

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

865 **SECTION 5-1003.**

866 Removal of elected officers.

867 Should the mayor or any member of the council be guilty of malpractice in office, willful
868 neglect of his or her office, or abuse of the power conferred on such officer, or guilty of any
869 other conduct unbecoming such an officer of the City of Cleveland, such officer shall be
870 subject to impeachment by the mayor and council, and upon conviction, shall be removed
871 from office.

872 **SECTION 5-1004.**

873 Bonds for officials.

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

878 **ARTICLE VI**
879 **PERSONNEL ADMINISTRATION**

880 **SECTION 6-1001.**
881 Personnel policies.

882 All employees serve at will and may be removed from office at any time unless otherwise
883 provided by ordinance. The city council is authorized to adopt a pay and classification plan,
884 which shall be maintained in the office of the clerk. For purposes of this section, elected and
885 appointed officers are not considered employees.

886 **ARTICLE VII**
887 **MUNICIPAL COURT**

888 **SECTION 7-1001.**
889 Creation; name.

890 There shall be a court to be known as the Municipal Court of the City of Cleveland.

891 **SECTION 7-1002.**
892 Chief judge; other judges.

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

895 (b) No person shall be qualified or eligible to serve as a judge on the municipal court unless
896 that person shall have attained the age of 21 years and shall possess all qualifications

897 required by law. All judges shall be appointed by the city council and shall serve until a
898 successor is appointed and qualified.

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

900 (d) Judges shall serve a term and may be removed as provided by general law.

901 (e) Before assuming office, each judge shall take an oath, given by the mayor, that the judge
902 will honestly and faithfully discharge the duties of the office to the best of that person's
903 ability and without fear, favor, or partiality. The oath shall be entered upon the minutes of
904 the city council.

905 **SECTION 7-1003.**

906 Convening.

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

908 **SECTION 7-1004.**

909 Jurisdiction; powers.

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

912 (b) The municipal court shall have authority to punish those in its presence for contempt,
913 provided that such punishment shall not exceed ten days in jail and a fine as authorized by
914 law.

915 (c) The municipal court may fix punishment for offenses within its jurisdiction not
916 exceeding a fine of \$1,000.00 or imprisonment for 180 days or both such fine and
917 imprisonment or may fix punishment by fine, imprisonment or alternative sentencing as now,
918 or hereafter provided by law.

- 919 (d) The municipal court shall have authority to establish a schedule of fees to defray the cost
920 of operation, and shall be entitled to reimbursement of the cost of meals, transportation, and
921 caretaking of prisoners bound over to superior courts for violations of state law.
- 922 (e) The municipal court shall have authority to establish bail and recognizances to ensure
923 the presence of those charged with violations before said court, and shall have discretionary
924 authority to accept cash or personal or real property as surety for the appearance of persons
925 charged with violations. Whenever any person shall give bail for that person's appearance
926 and shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge
927 presiding at such time, and an execution issued thereon by serving the defendant and the
928 defendant's sureties with a rule nisi, at least two days before a hearing on the rule nisi. In the
929 event that cash or property is accepted in lieu of bond for security for the appearance of a
930 defendant at trial, and if such defendant fails to appear at the time and place fixed for trial,
931 the cash so deposited shall be on order of the judge declared forfeited to the city, or the
932 property so deposited shall have a lien against it for the value forfeited which lien shall be
933 enforceable in the same manner and to the same extent as a lien for city property taxes.
- 934 (f) The municipal court shall have the same authority as superior courts to compel the
935 production of evidence in the possession of any party; to enforce obedience to its orders,
936 judgments and sentences; and to administer such oaths as are necessary.
- 937 (g) The municipal court may compel the presence of all parties necessary to a proper
938 disposal of each case by the issuance of summonses, subpoenas, and warrants which may be
939 served as executed by any officer as authorized by this charter or by law.
- 940 (h) Each judge of the municipal court shall be authorized to issue warrants for the arrest of
941 persons charged with offenses against any ordinance of the city, and each judge of the
942 municipal court shall have the same authority as a magistrate of the state to issue warrants
943 for offenses against state laws committed within the city.

944 **SECTION 7-1005.**

945 Rules for court.

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

952 **SECTION 7-1006.**

953 Petitions for review.

954 The right to seek petitions for review from the decision and judgment of the municipal court
955 shall exist in all criminal cases and ordinance violation cases, and such petitions shall be
956 made to the Superior Court of White County under the laws of the State of Georgia
957 regulating appeals to the superior courts.

958 **ARTICLE VIII**

959 **FINANCE**

960 **Part 1**

961 Taxation and Fees

962 **SECTION 8-1001.**

963 Property tax.

964 (a) All persons and corporations owning property in the City of Cleveland shall be required
965 to make a return under oath, annually, to the board of tax assessors of said city, of all their
966 property, real and personal, subject to taxation by said city, as of the first day of January of
967 each year; and the books for recording the same shall be opened on the first day of January
968 and closed on the first day of April of each year. Said property shall be returned by the
969 property owner or his or her authorized agent, on blanks furnished for the purpose, at the fair
970 market value thereof.

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

977 **SECTION 8-1002.**

978 Millage rate; due dates; payment methods.

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

981 **SECTION 8-1003.**

982 Collection of delinquent taxes and fees.

983 The city council, by ordinance, may provide generally for the collection of delinquent taxes,
984 fees, or other revenue due the city by whatever reasonable means as are not precluded by
985 law. This shall include providing for the dates when the taxes or fees are due; late penalties
986 or interest; issuance and execution of fi.fa.'s; creation and priority of liens; making delinquent

987 taxes and fees personal debts of the persons required to pay the taxes or fees imposed;
988 revoking city permits for failure to pay any city taxes or fees; and providing for the
989 assignment or transfer of tax executions.

990 **SECTION 8-1004.**

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

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

996 **SECTION 8-1005.**

997 Occupation and business taxes.

998 The city council by ordinance shall have the power to levy such occupation or business taxes
999 as are not denied by law. The city council may classify businesses, occupations or
1000 professions for the purpose of such taxation in any way which may be lawful and may
1001 compel the payment of such taxes as provided in Section 8-1003.

1002 **SECTION 8-1006.**

1003 Regulatory fees; permits.

1004 The city council by ordinance shall have the power to require businesses or practitioners
1005 doing business within this city to obtain a permit for such activity from the city and pay a
1006 reasonable regulatory fee for such permit as provided by general law. Such fees shall reflect

1007 the total cost to the city of regulating the activity, and if unpaid, shall be collected as
1008 provided in Section 8-1003.

1009 **SECTION 8-1007.**

1010 Franchises.

1011 (a) The city council shall have the power to grant franchises for the use of this city's streets
1012 and alleys for the purposes of railroads, street railways, telephone companies, electric
1013 companies, electric membership corporations, cable television and other telecommunications
1014 companies, gas companies, transportation companies and other similar organizations. The
1015 city council shall determine the duration, terms, whether the same shall be exclusive or
1016 nonexclusive, and the consideration for such franchises; provided, however, no franchise
1017 shall be granted for a period in excess of 35 years and no franchise shall be granted unless
1018 the city receives just and adequate compensation therefor. The city council shall provide for
1019 the registration of all franchises with the city clerk. The city council may provide by
1020 ordinance for the registration within a reasonable time of all franchises previously granted.
1021 (b) If no franchise agreement is in effect, the city council has the authority to impose a tax
1022 on gross receipts for the use of this city's streets and alleys for the purposes of railroads,
1023 street railways, telephone companies, electric companies, electric membership corporations,
1024 cable television and other telecommunications companies, gas companies, transportation
1025 companies and other similar organizations.

1026 **SECTION 8-1008.**

1027 Service charges.

1028 The city council by ordinance shall have the power to assess and collect fees, charges,
1029 assessments, and tolls for sewers, sanitary and health services, or any other services provided

1030 or made available within and without the corporate limits of the city. If unpaid, such charges
1031 shall be collected as provided in Section 8-1003. The authority to collect fees provided in
1032 this section is in addition to and not in limitation of any authority granted by this charter for
1033 collection of fees.

1034 **SECTION 8-1009.**
1035 Special assessments.

1036 The city council by ordinance shall have the power to assess and collect the cost of
1037 constructing, reconstructing, widening, or improving any public way, street, sidewalk,
1038 curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property
1039 owners. If unpaid, such charges shall be collected as provided in Section 8-1003. The
1040 authority to collect assessments provided in this section is in addition to and not in limitation
1041 of any other authority granted by this charter for collection of such charges.

1042 **SECTION 8-1010.**
1043 Construction; other taxes and fees.

1044 This city shall be empowered to levy any other tax or fee allowed now or hereafter by law,
1045 and the specific mention of any right, power or authority in this article shall not be construed
1046 as limiting in any way the general powers of this city to govern its local affairs.

Part 2**Borrowing****SECTION 8-1015.****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 8-1016.**Revenue bonds.**

(a) 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.

(b) The Cleveland Building Authority was legislatively created in 2021 for the purpose of providing building and facilities for use by the city and to finance such building and facilities by issuance of revenue bonds to be repaid from rentals received by the authority from the city. The city may continue to obtain revenue bonds through the Cleveland Building Authority, and pay those bonds as rent from any revenue.

(c) The mayor and council shall have full power and authority to acquire, construct, reconstruct, improve and extend revenue-producing projects and systems and to maintain and operate the same, to prescribe, revise, fix and collect rates, fees, tolls and charge for services, facilities and commodities furnished thereby and, in anticipation of the collection of revenues, to finance the cost of construction and operation of the same and to exercise all the

1070 powers and authorities authorized by Article 3, Chapter 82, Title 36 of the O.C.G.A., the
1071 "Revenue Bond Law."

1072 **SECTION 8-1017.**

1073 Short-term loans.

1074 The city may obtain short-term loans and must repay such loans not later than December 31
1075 of each year, unless otherwise provided by law.

1076 **SECTION 8-1018.**

1077 Lease-purchase contracts.

1078 The city may enter into multiyear lease, purchase, or lease-purchase contracts for the
1079 acquisition of goods, materials, real and personal property, services, and supplies provided
1080 the contract terminates without further obligation on the part of the municipality at the close
1081 of the calendar year in which it was executed and at the close of each succeeding calendar
1082 year for which it may be renewed. Contracts must be executed in accordance with the
1083 requirements of O.C.G.A., Code Section 36-60-13, or other such applicable laws as are or
1084 may hereafter be enacted.

Part 3**Accounting and Budgeting****SECTION 8-1025.**

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 unless otherwise provided by state or federal law.

SECTION 8-1026.

Preparation of budgets.

The city council shall provide 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 8-1027.

Submission of operating budget to city council.

On or before a date fixed by the city council but not later than 30 days prior to the beginning of each fiscal year, the city manager 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 city manager 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 such other pertinent comments and information. The

1106 operating budget and the capital budget hereinafter provided for, the budget message, and
1107 all supporting documents shall be filed in the office of the city clerk and shall be open to
1108 public inspection.

1109 **SECTION 8-1028.**

1110 Action by city council on budget.

1111 (a) The city council may amend the operating budget proposed by the city manager; except,
1112 that the budget as finally amended and adopted must provide for all expenditures required
1113 by state law or by other provisions of this charter and for all debt service requirements for
1114 the ensuing fiscal year, and the total appropriations from any fund shall not exceed the
1115 estimated fund balance, reserves, and revenues.

1116 (b) The city council by ordinance shall adopt the final operating budget for the ensuing fiscal
1117 year not later than the 30th day of June of each year. If the city council fails to adopt the
1118 budget by this date, the amounts appropriated for operation for the current fiscal year shall
1119 be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items
1120 prorated accordingly until such time as the city council adopts a budget for the ensuing fiscal
1121 year. Adoption of the budget shall take the form of an appropriations ordinance setting out
1122 the estimated revenues in detail by sources and making appropriations according to fund and
1123 by organizational unit, purpose, or activity as set out in the budget preparation ordinance
1124 adopted pursuant to Section 8-1027.

1125 (c) The amount set out in the adopted operating budget for each organizational unit shall
1126 constitute the annual appropriation for such, and no expenditure shall be made or
1127 encumbrance created in excess of the otherwise unencumbered balance of the appropriations
1128 or allotment thereof, to which it is chargeable.

1129 (d) Nothing contained in this section shall preclude the city from amending its budget so as
1130 to adapt to changing governmental needs during the budget period.

SECTION 8-1029.

Tax levies.

The city council shall levy by ordinance such taxes as the city council considers appropriate and necessary to conduct the business and governance of the city. The taxes and tax rates set by such ordinances 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 8-1030.

Changes in appropriations.

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

SECTION 8-1031.

Capital budget.

(a) On or before the date fixed by the city council but no later than 30 days prior to the beginning of each fiscal year, the city manager 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

1153 building, structure, work or improvement, unless the appropriations for such project are
1154 included in the capital budget, except to meet a public emergency as provided in
1155 Section 2-1016.

1156 (b) The city council shall adopt by ordinance the final capital budget for the ensuing fiscal
1157 year not later than the 30th day of June of each year. No appropriation provided for in a prior
1158 capital budget shall lapse until the purpose for which the appropriation was made shall have
1159 been accomplished or abandoned; provided, however, the city manager may submit
1160 amendments to the capital budget at any time during the fiscal year, accompanied by
1161 recommendations. Any such amendments to the capital budget shall become effective only
1162 upon adoption by ordinance.

1163 **SECTION 8-1032.**

1164 Independent audit.

1165 There shall be an annual independent audit of all city accounts, funds and financial
1166 transactions by a certified public accountant selected by the city council. The audit shall be
1167 conducted according to generally accepted auditing principles. Any audit of any funds by
1168 the state or federal governments may be accepted as satisfying the requirements of this
1169 charter. Copies of annual audit reports shall be available to the public, upon payment of such
1170 costs as required by O.C.G.A. Code Section 50-18-70, et seq.

Part 4**Procurement and Property Management.****SECTION 8-1035.****Contracting procedures.**

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

(1) It is in writing;

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

(3) It is made or authorized by the city council and such approval is entered in the city council minute book or journal of proceedings pursuant to Section 2-1012.

SECTION 8-1036.**Centralized purchasing.**

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

SECTION 8-1037.**Sale and lease of city property.**

(a) The city council may sell, convey, lease, or grant easements and other rights in, or any combination thereof, any real, personal, or mixed property, or any combination thereof 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 city manager 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 cutoff or separated by such work from a larger tract or boundary of land owned by the city, the city council may authorize the city manager 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 city manager the highest and best use of the abutting owner's property. Such sales shall be in accordance with the terms of contracts between such land owners and the city in accordance with the terms authorized by the city council. 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 made in accordance with such contracts and so executed and delivered shall convey the interest set forth therein, notwithstanding the fact that no public sale after advertisement was made.

SECTION 8-1038.

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 city manager 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.

1215 (c) Whenever in opening, extending or widening any street, avenue, alley or public place of
1216 the city, a small parcel or tract of land is cutoff or separated by such work from a larger tract
1217 or boundary of land owned by the city, the city council may authorize the city administer to
1218 sell and convey said cut-off or separated parcel or tract of land to an abutting or adjoining
1219 property owner or owners where such sale and conveyance facilitates the enjoyment of the
1220 highest and best use of the abutting owner's property. Included in the sales contract shall be
1221 a provision for the rights-of-way of said street, avenue, alley or public place. Each abutting
1222 property owner shall be notified of the availability of the property and given the opportunity
1223 to purchase said property under such terms and conditions as set out by ordinance. All deeds
1224 and conveyances heretofore and hereafter so executed and delivered shall convey all title and
1225 interest the city has in such property, notwithstanding the fact that no public sale after
1226 advertisement was or is hereafter made.

1227 **ARTICLE IX**

1228 **General Provisions**

1229 **SECTION 9-1001.**

1230 **Prior ordinances.**

1231 All ordinances, resolutions, rules, and regulations now in force in the city not inconsistent
1232 with this charter are hereby declared valid and of full effect and force until amended or
1233 repealed by the city council.

SECTION 9-1002.

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 appointive officers required or desired and arranging such titles, rights, privileges and powers as may be required or desired to allow a reasonable transition.

SECTION 9-1003.

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 9-1004.

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 9-1005.**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 9-1006.**Repealer.**

An Act providing for a new charter for the City of Cleveland, approved May 6, 2013 (Ga. L. 2013, p. 4068), is hereby repealed in its entirety; and all amendatory Acts thereto are likewise repealed in their entirety.

SECTION 9-1007.**General repealer.**

All other laws and parts of laws in conflict with this charter are hereby repealed.