

House Bill 1556 (AS PASSED HOUSE AND SENATE)

By: Representative O'Steen of the 169th

A BILL TO BE ENTITLED

AN ACT

1 To provide a new charter for the City of Nicholls; to provide for incorporation, boundaries,
2 and powers of the city; to provide for the examples of powers; to provide for the governing
3 structure of such city and the powers, duties, authority, prohibitions, elections, terms,
4 removal from office, method of filling vacancies, compensation, expenses, and qualifications
5 of the city council; to provide for holding other offices and financial interests; to provide for
6 inquiries and investigations; to provide for organization and meeting procedures; to provide
7 for ordinances; to provide for eminent domain; to provide for the office and certain powers
8 and duties of the city manager; to provide for the office of mayor and certain duties and
9 powers relative to the office of mayor; to provide for a mayor pro tem; to provide for
10 administrative responsibilities; to provide for a city attorney, city clerk, and other personnel;
11 to provide for the establishment of a municipal court and the judge or judges thereof; to
12 provide for practices and procedures; to provide for taxation, permits, and fees; to provide
13 for service charges and assessments; to provide for bonded and other indebtedness; to
14 provide for accounting and budgeting; to provide for contracting and purchasing; to provide
15 for sale of city property; to provide for bonds for officers; to provide for pending matters; to
16 provide for definitions and construction; to provide for severability; to provide for related
17 matters; to repeal specific Acts; to repeal conflicting laws; and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **ARTICLE I**
20 **INCORPORATION AND POWERS**

21 **SECTION 1.10.**
22 **Reincorporation.**

23 The City of Nicholls, and the inhabitants thereof, are reincorporated by the enactment of this
24 charter and are hereby constituted and declared a body politic and corporate under the name
25 and style of the City of Nicholls, Georgia, and by that name shall have perpetual succession.

26 **SECTION 1.11.**
27 **Corporate boundaries.**

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

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

40

SECTION 1.12.

41

General powers and construction.

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

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

49

SECTION 1.13.

50

Examples of powers.

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

52 (1) Animal regulations - to regulate and license or to prohibit the keeping or running at
53 large of animals and fowl;

54 (2) Appropriations and expenditures - to make appropriations for the support of the
55 government of the city; to authorize the expenditure of money for any purposes
56 authorized by this charter and for any purpose for which a municipality is authorized by
57 the laws of the State of Georgia; and to provide for the payment of expenses of the city;

58 (3) Building regulation - to regulate and to license the erection and construction of
59 buildings and all other structures; to adopt building, housing, plumbing, fire safety,
60 electrical, gas, and heating and air conditioning codes; and to regulate all housing and
61 building trades;

- 62 (4) Business regulation - to regulate and to license the erection and construction of
63 buildings and structures, to adopt, building, housing, plumbing, fire safety, electrical, gas,
64 and heating and air codes; and to regulate housing and building trades;
- 65 (5) Business fees and taxation - to levy and provide for the regulatory fees and taxes on
66 privileges, occupation, trade and professions authorized by Title 48 of the O.C.G.A., to
67 permit and regulate the same and to revoke such permits after the process for failure to
68 comply with city taxes or fees;
- 69 (6) Condemnation - to condemn property inside or outside of the limits of the city for
70 present or future use or for any purposes deemed necessary by the governing authority
71 utilizing procedures enumerated in Title 22 of the O.C.G.A.;
- 72 (7) Contracts - to enter into agreements and contracts with other governmental entities
73 and private persons or firms and corporations;
- 74 (8) Emergencies - to establish procedures for determining or proclaiming that an
75 emergency situation exists within the city and carrying out all reasonable provisions
76 deemed necessary to deal with such an emergency for the protection, safety, health and
77 well-being of the citizens of the city;
- 78 (9) Fire regulations - to fix and establish fire limits and from time to time to extend,
79 enlarge, or restrict the same and to describe fire safety regulations not inconsistent with
80 Georgia law, relating to both fire prevention and firefighting;
- 81 (10) Garbage fees - to levy, fix, assess and collect a garbage, refuse, and trash collection
82 and disposal and other sanitary service charge, tax, or fee for such services as is necessary
83 in the operation of the city for all individuals or corporations residing in or doing business
84 within the city;
- 85 (11) General health, safety and welfare - to define, regulate and prohibit any act,
86 practice, conduct or use of property which is detrimental to the health, sanitation,
87 cleanliness, welfare, and safety of the inhabitants of the city; and to provide for the
88 enforcement of such standards;

- 89 (12) Gifts - to accept or refuse gifts, donations, bequests, or grants from any source for
90 any purposes related to the powers and duties of the city and the general welfare of its
91 citizens on such terms and conditions as a donor or grantor may impose;
- 92 (13) Health and sanitation - to prescribe standards of health and sanitation and to
93 provide for the enforcement of such standards;
- 94 (14) Motor vehicles - to regulate operation of motor vehicles and exercise control over
95 all traffic including parking upon and across streets, roads, alleys, and walkways of the
96 city;
- 97 (15) Municipal agencies and delegation of power - to create, alter or abolish departments,
98 boards, offices, commissions, and agencies of the city and to confer upon such agencies
99 the necessary and appropriate authority to carry out all powers conferred upon or
100 delegated to the same;
- 101 (16) Municipal debts - to appropriate and borrow money for the payment of the debts of
102 the city, and to issue bonds for the purpose of raising revenue to carry out a new project,
103 program, or adventure authorized by this charter or the laws of the State of Georgia; and
104 to obtain and to apply for grants for the purpose of this paragraph;
- 105 (17) Municipal property ownership - to acquire, dispose of, lease, or hold in trust or
106 otherwise any real, personal, or mixed property, in fee simple or lesser interest inside or
107 outside the limits of the city;
- 108 (18) Municipal utilities - to acquire, lease, construct, operate, maintain, sell and dispose
109 all public utilities including, but not limited to, waterworks, sewers, drains, sewage
110 disposal and stormwater management; to fix the taxes, charges, rates, fares, fees,
111 assessments, regulations and penalties; and to provide for the trial service for usual failure
112 to pay the same;
- 113 (19) Nuisance - to define a nuisance and to provide for its abatement whether it is on
114 public or private property;

- 115 (20) Penalties - to provide penalties for violation of any ordinance adopted pursuant to
116 the authority of this charter and the laws of the State of Georgia;
- 117 (21) Planning and zoning - to provide comprehensive city planning for any development
118 by zoning and to provide subdivision regulation and the like as the city council deems
119 necessary and reasonable to ensure a safe, healthy, and aesthetically pleasing community;
- 120 (22) Police and fire protection - to exercise the power of arrest through duly appointed
121 police officers and to establish, operate, or contract for a police and a firefighting agency;
- 122 (23) Public hazards - to provide for the destruction and removal of any building or other
123 structure which is or may become dangerous or detrimental to the public;
- 124 (24) Regulation of roadside areas - to prohibit or regulate and control the erection,
125 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any
126 and all of the structures or obstructions upon or adjacent to the rights of way of the streets
127 and roads within the city and to prescribe penalties and punishment for violation of such
128 ordinances;
- 129 (25) Retirement - to provide and maintain a retirement plan or other employee benefit
130 plans and programs for officers and employees of the city;
- 131 (26) Roadways - to lay out, open, extend, widen, narrow, establish or change the grade
132 of, abandon or close, construct, pave, curb, or gutter, or otherwise improve, maintain,
133 repair, or clean all roadways, light, roads, alleys and walkways within the corporate limits
134 of the city;
- 135 (27) Solid waste disposal - to provide for the collection and disposal of garbage, rubbish,
136 and refuse; and to regulate the collection and disposal of garbage, rubbish, refuse by
137 others; and
- 138 (28) Other powers - to exercise and enjoy all other powers, functions, rights, privileges
139 and immunities necessary or desirable to promote or protect the safety, health, peace,
140 security, good order, comfort, convenience, or general welfare of the city and its
141 inhabitants; to exercise all implied powers necessary or desirable to carry out the

142 execution of all powers granted in this charter as fully and completely as if such powers
143 were fully stated herein; to exercise all powers now or in the future authorized to be
144 exercised by other municipal governments under other laws of the State of Georgia, and
145 no listing of particular powers in this charter shall be held to be exclusive of others, nor
146 are restrictive of general words and phrases granting powers, but shall be held to be in
147 addition to such powers unless expressly prohibited to municipalities under the
148 Constitution or laws of the State of Georgia.

149 **SECTION 1.14.**

150 Exercise of powers.

151 All powers, functions, rights, and privileges of this city and its officers, agencies, or
152 employees shall be carried into execution as provided by ordinance or as provided by
153 pertinent laws of the State of Georgia.

154 **ARTICLE II**

155 **GOVERNMENT STRUCTURE**

156 **SECTION 2.10.**

157 City council creation; number; and election.

158 The legislative authority of the government of the city, except as otherwise specifically
159 provided in this charter, shall be vested in a city council to be composed of five
160 councilmembers. The city council established shall in all respects be a successor to and
161 continuation of the governing authority under prior law. Councilmembers shall be elected
162 in the manner provided by general law and in this charter. Members of the city council shall

163 be elected by the voters of the city at large and the regular election of all five
164 councilmembers shall occur in the same year.

165 **SECTION 2.11.**

166 City council terms and qualifications for office.

167 The members of the city council shall serve terms of four years and until their respective
168 successors are elected and qualified. No person shall be eligible to serve as a councilmember
169 unless that person shall be a resident of the city for 12 months prior to the date of the election
170 of members of the city council and is registered and qualified to vote in municipal elections
171 of the city. Each councilmember shall continue to reside within the city during that member's
172 period of service and to be registered and qualified to vote in municipal elections of the city.

173 **SECTION 2.12.**

174 Vacancy; filling of vacancies.

175 (a) The office of a councilmember shall become vacant upon the incumbent's death,
176 resignation, forfeiture of office, or occurrence of any event specified by the Constitution of
177 the State of Georgia, Title 45 of the O.C.G.A., or such other applicable laws as are or may
178 be hereafter enacted.

179 (b) A vacancy in the office of a councilmember shall be filled for the remainder of the
180 unexpired term by appointment of the majority vote of the remaining city councilmembers
181 if there remain less than 12 months on the unexpired term. If such vacancy occurs 12 months
182 or more prior to the expiration of that term of office, it shall be filled for the remainder of the
183 unexpired term by a special election.

184 **SECTION 2.13.**

185 Compensation; expenses.

186 Councilmembers shall receive compensation and reimbursement for expenses for their
187 services as provided by city ordinance, as may be amended.

188 **SECTION 2.14.**

189 Holding of other office or voting when financially interested.

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

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

194 (c) No member of the city council shall vote upon or sign any ordinance, resolution,
195 contract, other matter in which that person is financially interested.

196 **SECTION 2.15.**

197 Inquiries and investigations.

198 Following the adoption of an authorizing resolution, the city council may make inquiries and
199 investigations into the affairs of the city and the conduct of any department, office, or agency
200 thereof, and for this purpose may subpoena witnesses, administer oaths, take testimony, and
201 require the production of evidence. Any person who fails or refuses to obey a lawful order

202 issued in the exercise of these powers by the city council shall be punishable as provided by
203 ordinance.

204 **SECTION 2.16.**

205 General power and authority of the city council.

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

208 (b) In addition to all powers conferred upon it by law, the city council shall have the
209 authority to adopt and provide for the execution of such ordinances, resolutions, rules, and
210 regulations, not inconsistent with this charter and the Constitution of the State of Georgia,
211 which it shall deem necessary, expedient, or helpful for the peace, good order, protection of
212 life and property, health, welfare, sanitation, comfort, convenience, prosperity, or well-being
213 of the inhabitants of the City of Nicholls and may enforce such ordinances by imposing
214 penalties for violation thereof.

215 **SECTION 2.17.**

216 Eminent domain.

217 The city council is hereby empowered to acquire, construct, operate, and maintain public
218 ways, parks, public grounds, cemeteries, public buildings, libraries, sewers, drains, sewage
219 treatment, waterworks, and any other public improvements inside the city, and to regulate
220 the use thereof for such purposes. Property may be condemned under procedures established
221 under the general laws of the State of Georgia applicable now or as provided in the future.

222 **SECTION 2.18.**

223 Meetings.

224 (a) The city council shall hold regularly scheduled meetings on the first Monday of each
225 month, unless that date conflicts with a holiday, then the meeting shall be held on the
226 following day.

227 (b) Special meetings of the city council may be held if called by the mayor or two members
228 of the city council. Notice of such special meetings shall be served on all members
229 personally, or by telephone personally, at least 48 hours in advance of the meeting. Such
230 notice to the councilmembers shall not be required if the mayor and all councilmembers are
231 present when the special meeting is called. Such notice of any special meeting may be
232 waived by a councilmember in writing before or after such meeting, and attendance at the
233 meeting shall also constitute a waiver of notice on any business transacted with such
234 councilmembers present. Only the business stated in the call may be transacted at the special
235 meeting.

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

240 **SECTION 2.19.**

241 Rules of procedure.

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

245 (b) The mayor shall appoint all officers and committees of the city council and designate
246 committee chairs and such appointees shall serve at the pleasure of the mayor. The mayor
247 which shall have the power to appoint new members to any committee at any time.

248 **SECTION 2.20.**

249 Quorum; voting.

250 (a) Three councilmembers shall constitute a quorum and shall be authorized to transact
251 business of the city council. Voting on the adoption of ordinances shall be by voice vote, and
252 the vote shall be recorded in the journal; provided however, that any member of the city
253 council shall have the right to request a roll call vote and such vote shall be recorded in the
254 journal. Except as otherwise provided in this charter, the affirmative vote of the majority of
255 the councilmembers present at the meeting shall be required for the adoption of any
256 ordinance, resolution, or motion.

257 (b) No member of the city council shall abstain from voting on any matter properly brought
258 before the city council for official action, except when such councilmember has a conflict
259 of interest which is disclosed in writing, prior to or at the meeting, and made a part of the
260 minutes. Any member of the city council present and eligible to vote on the matter and
261 refusing to do so for any reason other than a properly disclosed and recorded conflict of
262 interest shall be deemed to have acquiesced or concurred with the members of the majority
263 who did vote on the question involved.

264

SECTION 2.21.

265

Ordinance forms; procedures.

266 (a) Every proposed ordinance should be introduced in writing and in the form required for
267 final adoption. No ordinance shall contain a subject which is not expressed in its title.

268 (b) An ordinance may be introduced by any councilmember and be read at a regular or
269 special meeting of the city council. Ordinances shall be considered and adopted or rejected
270 by the city council in accordance with the rules which it shall establish; provided, however,
271 that an ordinance shall not be adopted the same date it is introduced, except for emergency
272 ordinances provided in Section 2.23 of this charter. Upon introduction of any ordinance, the
273 city clerk shall, as soon as possible, distribute a copy to the mayor and each councilmember
274 and shall file a reasonable number of copies in the office of the city clerk and at such other
275 public places as the city council may designate.

276

SECTION 2.22.

277

Action requiring an ordinance.

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

279

SECTION 2.23.

280

Emergencies.

281 (a) To address a public emergency affecting life, health, property or public peace, the city
282 council may convene on the call of the mayor or two councilmembers and promptly adopt
283 an emergency ordinance, but such ordinance may not levy taxes; grant, renew or extend a
284 franchise; regulate the rate charged by any public utility for its services; or authorize a

285 borrowing of money. An emergency ordinance shall be introduced in the form prescribed
286 for ordinances generally, except that it shall be plainly designated as an emergency ordinance
287 and shall contain, after the enacting clause, a declaration stating that an emergency exists and
288 shall describe the emergency in clear and specific terms. An emergency ordinance may be
289 adopted, with or without amendment, or rejected at the meeting in which it is introduced, but
290 the affirmative vote of at least a majority of the councilmembers present shall be required for
291 adoption. Such emergency ordinance shall become effective upon adoption or at such later
292 time as it may specify. Every emergency ordinance shall automatically stand repealed 30
293 days following the date upon which it was adopted, but this shall not prevent reenactment of
294 an ordinance in the manner specified in this section if the emergency still exists. An
295 emergency ordinance may also be repealed by adoption of a repealing ordinance in the same
296 manner specified in this section for the adoption of emergency ordinances.

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

301

SECTION 2.24.

302

City manager; appointment, qualifications, compensation.

303 The city council shall appoint a city manager for an indefinite term and shall fix the city
304 manager's compensation. The city manager shall be appointed solely on the basis of
305 executive and administrative qualifications. A master's degree with a concentration in public
306 administration, public affairs, or public policy and two years of experience in an appointed
307 managerial or administrative position in local government or a bachelor's degree with five

308 years of experience are the desired, but not required, qualifications for the person appointed
309 the city manager. The city manager may also be referred to as "the manager."

310 **SECTION 2.25.**

311 Removal of the city manager.

312 The city manager shall be an at-will employee and may be removed from office at any time
313 by majority vote of the city council. The city council shall review the performance of the
314 city manager on an annual basis.

315 **SECTION 2.26.**

316 Council interference with the administration.

317 Except for the purpose of inquiries and investigations under Section 2.15 of this charter, the
318 city council or councilmembers shall deal with the city officers and employees who are
319 subject to the direction and supervision of the city manager solely through the city manager,
320 and neither the city council nor any of its members shall give orders to any such officer or
321 employee, either publicly or privately.

322 **SECTION 2.27.**

323 Election of mayor; forfeiture; compensation.

324 The mayor shall be elected and serve a term of four years and until his or her successor is
325 elected and qualified. The mayor shall be a qualified elector of this city and shall have been
326 a resident of the city for 12 months prior to election. The mayor shall continue to reside in
327 the city during his or her period of service. The mayor shall forfeit his or her office on the

328 same grounds and on the same procedures as for councilmembers. The compensation for
329 the mayor shall be established in the same manner as for councilmembers.

330 **SECTION 2.28.**

331 Mayor pro tem.

332 By majority vote, the city council shall elect a councilmember to serve as mayor pro tem.
333 The mayor pro tem shall assume the duties and powers of the mayor during the mayor's
334 physical and mental disability, suspension from office, or absence. Any such disability or
335 absence shall be declared by a majority vote of the city council. The mayor pro tem shall be
336 authorized to carry out the powers and duties designated for the mayor. When acting as
337 mayor, the mayor pro tem shall continue to have one vote as a member of the city council.

338 **SECTION 2.29.**

339 Powers and duties of the mayor.

340 The mayor shall:

- 341 (1) Preside over all meetings of the city council;
342 (2) Be the head of the city for purpose for service of process and for ceremonial purposes
343 and to be the official spokesperson for the city and chief advocate of policy;
344 (3) Have the power to administer oaths;
345 (4) Sign as a matter of course, on behalf of the city all written and approved contracts,
346 ordinances, and other instruments executed by the city, which by law are required to be in
347 writing;

- 348 (5) Vote on matters before the city council in the event that there is a tie vote among the
349 voting councilmembers on any issue;
- 350 (6) In conjunction with the city manager, prepare and submit to the city council a
351 recommended annual operating budget and recommended capital budget; and
- 352 (7) Fulfill such other executive and administrative duties as the city council shall by
353 ordinance establish.

354 **ARTICLE III**
355 **ADMINISTRATIVE AFFAIRS**

356 **SECTION 3.10.**
357 **Administrative and service departments.**

- 358 (a) Except as otherwise provided in this charter, the city council, by ordinance, shall
359 prescribe the functions and duties, and establish, abolish, alter, consolidate or leave vacant
360 all nonelective offices, positions of employment, departments, and agencies of the city, as
361 necessary for the proper administration of the affairs and government of this city.
- 362 (b) On the effective date of this charter, there shall be the following departments of the city
363 government:
- 364 (1) Administration;
- 365 (2) Fire;
- 366 (3) Police;
- 367 (4) Roads; and
- 368 (5) Water and sewer.

369 (c) Except as otherwise provided by this charter or by law, the directors of departments of
370 the city shall be appointed by the city council solely on the basis of their respective
371 administrative and professional qualifications.

372 (d) All appointive officers and directors of departments shall receive such compensation as
373 set by ordinance or resolution.

374 (e) The director of each department or agency shall be its principal officer. Each director
375 shall, subject to the direction and supervision of the city manager, be responsible for the
376 administration and direction of the affairs and operations of that director's department or
377 agency.

378 (f) All appointed officers and directors shall be employees at-will and subject to suspension
379 at any time by the city manager and removal by the city council upon recommendation to the
380 city manager unless otherwise provided by law or ordinance.

381 (g) Each department director shall be subject to an annual review conducted by city council.

382 **SECTION 3.11.**

383 City attorney.

384 The city council shall appoint a city attorney and shall provide for the payment of such
385 attorney for services rendered to the city. The city attorney shall be responsible for providing
386 for the representation and defense of the city and all litigation in which the city is a party;
387 shall attend the meetings of the city council as directed; shall advise the city council, mayor,
388 and other officials and employees of the city concerning legal aspects of the city's affairs; and
389 shall perform such other duties as may be required by virtue of such person's position as city
390 attorney. The city attorney shall not be a public official of the city and is not required to take
391 an oath of office. The city attorney shall at all times be an independent contractor.

392 **SECTION 3.12.**

393 City clerk.

394 The city council shall appoint a city clerk who shall not be a councilmember. The city clerk
395 position shall be reviewed on an annual basis by the city council. The city clerk shall be the
396 custodian of the city seal in city records; maintain city council records required by this
397 charter; and perform such other duties as may be required by the city council. The city clerk
398 shall be responsible for the administrative department of the city supervising all personnel
399 working in offices located in city hall.

400 **SECTION 3.13.**

401 Position classification and pay plans.

402 The city manager shall be responsible for the preparation of position classification and pay
403 plans which shall be submitted to the city council for approval. Such plans shall apply to all
404 employees of the city and any of its agencies, departments, boards, commissions or
405 authorities. When a pay plan has been adopted, the city council shall not increase or decrease
406 the salary range in any position except by amendment of such pay plan. For the purposes of
407 this section, all elected and appointed city officials are not considered city employees. City
408 employees are subject to this pay plan.

409 **SECTION 3.14.**

410 Personnel Policies.

411 All employees of the city serve at-will and may be removed from office at any time, unless
412 otherwise provided by ordinance.

413

ARTICLE IV

414

MUNICIPAL COURT

415

SECTION 4.10.

416

Creation; name.

417 There shall be a court to be known as the Municipal Court of the City of Nicholls.

418

SECTION 4.11.

419

Chief judge; other judges.

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

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

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

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

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

432 **SECTION 4.12.**

433 Convening.

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

435 **SECTION 4.13.**

436 Jurisdiction; powers.

437 (a) The municipal court shall have jurisdiction and authority to try and punish violations of
438 this charter, all city ordinances, and such other violations as provided by law.439 (b) The municipal court shall have authority to punish those in its presence for contempt,
440 provided that such punishment shall not exceed \$200.00 or ten days in jail.441 (c) The municipal court may fix punishment for offenses within its jurisdiction not
442 exceeding a fine of \$1,000.00 or imprisonment for 12 months, or both. The municipal court
443 may also fix punishment by alternative sentencing now or hereinafter provided by law.444 (d) The municipal court shall have authority to establish a schedule of fees to defray the cost
445 of operation.446 (e) The municipal court shall have the authority to establish bail and recognizances to ensure
447 the presence of those charged with violations. Whenever any person shall give bail for that
448 person's appearance and shall fail to appear at the time fixed for trial, the bond may be
449 forfeited pursuant to provisions of Georgia law.450 (f) The municipal court shall have the same authority as superior courts to compel the
451 production of evidence in the possession of any party; to enforce obedience to its orders,
452 judgments and sentences; and to administer such oaths as are necessary.453 (g) The municipal court may compel the presence of all parties necessary to a proper
454 disposal of each case by the issuance of summonses, subpoenas, and warrants which may be
455 served as executed by any officer as authorized by this charter or by law.

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

460 **SECTION 4.14.**

461 Rules for court.

462 The judge shall have full power and authority to make reasonable rules and regulations
463 necessary and proper to secure the efficient and successful administration of the municipal
464 court.

465 **SECTION 4.15.**

466 Petitions for review.

467 The right to seek petitions for review from the decision and judgment of the municipal court
468 shall exist in all criminal cases and ordinance violation cases, and such petitions shall be
469 made to the Superior Court of Coffee County under the laws of the State of Georgia
470 regulating appeals to the superior courts.

471 **ARTICLE V**
472 **ELECTIONS**

473 **SECTION 5.10.**
474 **Applicability of general law.**

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

477 **SECTION 5.11.**
478 **Election of the city council and mayor.**

479 (a) There shall be a municipal general election quadrennially in certain odd-numbered years
480 on the Tuesday next following the first Monday in November.

481 (b) The mayor and councilmembers in office on the effective date of this charter shall serve
482 out the terms to which they were elected. The first election under this charter shall occur on
483 the Tuesday following the first Monday in November, 2029.

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

487 **SECTION 5.12.**
488 **Nonpartisan elections.**

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

491 **SECTION 5.13.**

492 Elections by plurality.

493 (a) The person receiving a plurality votes cast for mayor at any election for mayor shall be
494 elected to the office of mayor.

495 (b) The five candidates receiving the most votes at a regular election for the city council
496 shall be elected to the offices of city councilmember.

497 **SECTION 5.14.**

498 Special election; vacancies.

499 In the event of the office of mayor or councilmember becoming vacant, the city council or
500 those remaining shall order a special election to fill the balance of the unexpired term of the
501 mayor or such councilmember; provided, however, that, if the vacancy occurs within 12
502 months of the expiration of the term of the city councilmember, the city council or those
503 remaining shall appoint a successor for the remainder of the unexpired term. Any special
504 election held shall be held and conducted in accordance with Chapter 2 of Title 21 of the
505 O.C.G.A, the "Georgia Election Code," as now or hereafter amended.

506 **ARTICLE VI**
507 **FINANCE**

508 **SECTION 6.10.**
509 **Property tax.**

510 The city council may assess, levy and collect an ad valorem tax on all real and personal
511 property within the corporate limits of the city that is subject to taxation by the state and
512 county. This tax is for the purpose of raising revenue to defray the costs of operating the city
513 government, of providing governmental services, for the repayment of principal and interest
514 on general obligations, and for any other public purpose which is determined by the city
515 council in its discretion.

516 **SECTION 6.11.**
517 **Millage rate; due dates; payment methods.**

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

520 **SECTION 6.12.**
521 **Occupation and business taxes.**

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

526

SECTION 6.13.

527

Regulatory fees; permits.

528

529

530

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

531

SECTION 6.14.

532

Service charges.

533

534

535

536

The city council by ordinance shall have the power to assess and collect fees, charges, assessments, and totals for sewer, sanitary and health services, and any other services made available within corporate limits of the city. If unpaid, such charges shall be collected as provided in Section 6.17 of this charter.

537

SECTION 6.15.

538

Special assessments.

539

540

541

542

The city council by ordinance shall have the power to assess and collect the cost of constructing, reconstructing, widening, or improving any public way, street, sidewalk, curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property owners. If unpaid, such charges shall be collected as provided in Section 6.17 of this charter.

543 **SECTION 6.16.**

544 Construction; other taxes and fees.

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

548 **SECTION 6.17.**

549 Collection of delinquent taxes and fees.

550 The city council by ordinance may provide generally for the collections of delinquent taxes,
551 fees, or other revenue due to the city under Section 6.10 through 6.16 or through whatever
552 reasonable means not precluded by law. This shall include providing for the dates when the
553 taxes or fees are due; late penalties or interest; issuance and execution of fi. fa.'s; creation and
554 priority of liens; making delinquent taxes and fees and personal debts of the person required
555 to pay the taxes or fees imposed; revoking the city permits for failure to pay any city taxes
556 or fees; and providing for the assignment or transfer of tax executions.

557 **SECTION 6.18.**

558 General obligation bonds.

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

563 **SECTION 6.19.**

564 Revenue bonds.

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

568 **SECTION 6.20.**

569 Short-term loans.

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

572 **SECTION 6.21.**

573 Lease-purchase contracts.

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

581 **SECTION 6.22.**

582 Fiscal year.

583 The city council shall set the fiscal year by ordinance. This fiscal year shall constitute the
584 budget year and the year for financial accounting and reporting of each and every office,
585 department, agency and activity of the city government unless otherwise provided by state
586 or federal law.

587 **SECTION 6.23.**

588 Preparation of budgets.

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

592 **SECTION 6.24.**

593 Submission of operating budget to city council.

594 On or before a date fixed by the city council but not later than 90 days prior to the beginning
595 of each fiscal year, the city manager shall submit to the city council a proposed operating
596 budget for the ensuing fiscal year. The budget shall be accompanied by a message from the
597 city manager containing a statement of the general fiscal policies of the city, the important
598 features of the budget, explanations of major changes recommended for the next fiscal year,
599 a general summary of the budget, and such other pertinent comments and information. The
600 operating budget and the capital budget hereinafter provided for, the budget message, and
601 all supporting documents shall be filed in the office of the city clerk and shall be open to
602 public inspection.

603

SECTION 6.25.

604

Action by city council on budget.

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

610 (b) The city council by ordinance shall adopt the final operating budget for the ensuing fiscal
611 year not later than the 30 days prior to the end of the fiscal year. If the city council fails to
612 adopt the budget by this date, the amounts appropriated for operation for the current fiscal
613 year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all
614 items prorated accordingly until such time as the city council adopts a budget for the ensuing
615 fiscal year.

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

620

SECTION 6.26.

621

Tax levies.

622 The city council shall levy by ordinance such taxes as are necessary. Taxes and tax rates set
623 by such ordinance shall be such that reasonable estimates of revenue from such levies shall
624 at least be sufficient, together with other anticipated revenues, fund balances and applicable

625 reserves, to equal the total amount appropriated for each of the several funds set forth in the
626 annual operating budget for defraying the expenses of the general government of the city.

627 **SECTION 6.27.**

628 Changes in appropriations.

629 The city council by ordinance may make changes in the appropriations contained in the
630 current operating budget, at any regular, special or emergency meeting called for such
631 purpose, but any additional appropriations may be made only from an existing unexpended
632 surplus.

633 **SECTION 6.28.**

634 Independent audit.

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

641 **SECTION 6.29.**

642 Contracting procedures.

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

- 644 (1) It is in writing;
- 645 (2) It is drawn by or submitted to and reviewed by the city attorney, and as a matter of
646 course, is signed by the city attorney to indicate such drafting or review; and
- 647 (3) It is made or authorized by the city council and such approval is entered in the city
648 council minute book or journal of proceedings pursuant to Section 2.21.

649 **SECTION 6.30.**

650 Sale and lease of city property.

651 (a) The city council may sell, convey, lease, or grant easements and other rights in, or any
652 combination thereof, any real, personal, or mixed property, or any combination thereof,
653 owned or held by the city for governmental or other purposes as now or hereafter provided
654 by law.

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

659 (c) Whenever in opening, extending or widening any street, alley or public place of the city,
660 a small parcel or tract of land is cut off or separated by such work from a larger tract or
661 boundary of land owned by the city, the city council may authorize the city manager to sell
662 or convey said cut off or separated parcel or tract of land to the abutting or adjoining property
663 owner or owners where such sale or conveyance facilitates the enjoyment of the highest and
664 best use of the abutting owner's property.

665 **ARTICLE VII**
666 **GENERAL PROVISIONS**

667 **SECTION 7.10.**
668 **Bond for officers**

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

672

673 **SECTION 7.11.**
674 **Prior ordinances.**

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

678 **SECTION 7.12.**
679 **Existing personnel and officers.**

680 Except as specifically provided otherwise in this charter, all personnel and officers of the city
681 and their rights, privileges and powers shall continue until amended or repealed by the city
682 council.

683 **SECTION 7.13.**

684 Pending matters.

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

689 **SECTION 7.14.**

690 Construction.

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

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

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

696 **SECTION 7.15.**

697 Severability.

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

704 **SECTION 7.16.**

705 Repealer.

706 An Act to provide and establish a new charter for the Town of Nichols, in the County of
707 Coffee, approved August 16, 1920 (Ga. L. 1920, p. 1329), is hereby repealed in its entirety;
708 and all amendatory Acts thereto are likewise repealed in their entirety.

709 **SECTION 7.17.**

710 General repealer.

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