

House Bill 247 (AS PASSED HOUSE AND SENATE)

By: Representative Battles of the 15th

A BILL TO BE ENTITLED
AN ACT

1 To provide a new charter for the City of Emerson; to provide for incorporation, boundaries,
2 and powers of the city; to provide for a governing authority of such city and the powers,
3 duties, authority, election, terms, vacancies, compensation, expenses, qualifications,
4 prohibitions, conflicts of interest, and suspension and removal from office relative to
5 members of such governing authority; to provide for inquiries and investigations; to provide
6 for oaths, organization, meetings, quorum, voting, rules, and procedures; to provide for
7 ordinances and codes; to provide for a city manager, mayor, and mayor pro tempore and
8 certain duties, powers, and other matters relative thereto; to provide for administrative affairs
9 and responsibilities; to provide for boards, commissions, and authorities; to provide for a city
10 attorney, a city clerk, and other personnel and matters relating thereto; to provide for rules
11 and regulations; to provide for a municipal court and the judge or judges thereof and other
12 matters relative to those judges; to provide for the court's jurisdiction, powers, practices, and
13 procedures; to provide for the right of certiorari; to provide for elections; to provide for
14 taxation, licenses, and fees; to provide for franchises, service charges, and assessments; to
15 provide for bonded and other indebtedness; to provide for auditing, accounting, budgeting,
16 and appropriations; to provide for city contracts and purchasing; to provide for the
17 conveyance of property and interests therein; to provide for bonds for officials; to provide
18 for prior ordinances and rules, pending matters, and existing personnel; to provide for
19 penalties; to provide for definitions and construction; to provide for other matters relative to
20 the foregoing; to repeal a specific Act; to provide for effective dates; to repeal conflicting
21 laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 ARTICLE I

24 INCORPORATION AND POWERS

25 SECTION 1.10.

26 Name.

27 The City of Emerson, in Bartow County, Georgia, is reincorporated by the enactment of this
 28 charter and are hereby constituted and declared a body politic and corporate under the name
 29 and style Emerson, Georgia, and by that name shall have perpetual succession.

30 SECTION 1.11.

31 Corporate boundaries.

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

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

43 SECTION 1.12.

44 Powers and construction.

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

49 (b) The powers of this city shall be construed liberally in favor of the city. The specific
 50 mention or failure to mention particular powers shall not be construed as limiting in any way
 51 the powers of this city. These powers 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 and to provide for the impoundment of same if in violation of
 54 any ordinance or lawful order; to provide for the disposition by sale, gift, or humane

55 destruction of animals and fowl when not redeemed as provided by ordinance; and to
56 provide punishment for violation of ordinances enacted under this charter;

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

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

65 (4) Business regulation and taxation. To levy and to provide for collection of regulatory
66 fees and taxes on privileges, occupations, trades, and professions as authorized by Title 48
67 of the Official Code of Georgia Annotated, or such other applicable laws as are or may
68 hereafter be enacted; to permit and regulate the same; to provide for the manner and
69 method of payment of such regulatory fees and taxes; and to revoke such permits after due
70 process for failure to pay any city taxes or fees;

71 (5) Condemnation. To condemn property as granted to municipalities under the general
72 laws of the State of Georgia, utilizing procedures enumerated in Title 22 of the O.C.G.A.
73 or such other applicable laws as are now or may hereafter be enacted;

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

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

80 (8) Environmental protection. To protect and preserve the natural resources, environment,
81 and vital areas of this state through the preservation and improvement of air quality, the
82 restoration and maintenance of water resources, the control of erosion and sedimentation,
83 the management of stormwater and the establishment of a stormwater utility, the
84 management of solid and hazardous waste, and other necessary actions for the protection
85 of the environment;

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

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

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

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

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

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

105 (14) Jail sentences. To provide that persons given jail sentences in the municipal court
106 may work out such sentences in any public works or on the streets, roads, drains, and other
107 public property in the city, to provide for commitment of such persons to any jail, to
108 provide for the use of pretrial diversion and any alternative sentencing allowed by law, or
109 to provide for commitment of such persons to any county work camp or county jail by
110 agreement with the appropriate county officials;

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

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

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

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

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

127 (20) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose
128 of public utilities, including, but not limited to, a system of waterworks, sewers and drains,

129 sewage disposal, stormwater management, gas works, electric light plants, cable television
130 and other telecommunications, transportation facilities, public airports, and any other
131 public utility; and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and
132 penalties, and to provide for the withdrawal of service for refusal or failure to pay the same;

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

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

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

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

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

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

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

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

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

162 (30) Regulation of roadside areas. To prohibit or regulate and control the erection,
163 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any and
164 all other structures or obstructions upon or adjacent to the rights of way of streets and roads

165 or within view thereof, within or abutting the corporate limits of the city; and to prescribe
166 penalties and punishment for violation of such ordinances;

167 (31) Retirement. To provide and maintain a retirement plan and other employee benefit
168 plans and programs for officers and employees of the city;

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

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

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

187 (35) Special areas of public regulation. To regulate or prohibit junk dealers, the
188 manufacture and sale of intoxicating liquors; to regulate the transportation, storage and use
189 of combustible, explosive and inflammable materials, the use of lighting and heating
190 equipment, and any other business or situation which may be dangerous to persons or
191 property; to regulate and control the conduct of peddlers and itinerant traders, theatrical
192 performances, exhibitions, and shows of any kind, by taxation or otherwise; to license and
193 tax professional fortunetelling, palmistry, and massage parlors; and to restrict adult
194 bookstores to certain areas;

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

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

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

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

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

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

218 **SECTION 1.13.**

219 Exercise of powers.

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

224 **ARTICLE II**

225 **GOVERNMENT STRUCTURE**

226 **SECTION 2.10.**

227 City council creation; number; election.

228 The legislative authority of the government of this city, except as otherwise specifically
 229 provided in this charter, shall be vested in a city council to be composed of a mayor and four
 230 councilmembers. The city council established in this charter shall in all respects be a
 231 successor to and continuation of the city governing authority under prior law. The mayor and
 232 councilmembers shall be elected in the manner provided by general law and this charter.

233 **SECTION 2.11.**

234 City councilmembers; terms and qualifications for office.

235 The members of the city council shall serve for terms of four years and until their respective
 236 successors are elected and qualified. The term of office of each member of the city council
 237 shall begin on the first day of January immediately following the election of such member
 238 unless general law authorizes or requires the term to begin at the first organizational meeting
 239 in January or upon some other date. No person shall be eligible to serve as mayor or
 240 councilmember unless that person shall have been a resident of the city for twelve (12)
 241 months prior to the date of the election of the mayor or members of the city council. Each
 242 shall continue to reside therein during that person's period of service and to be registered and
 243 qualified to vote in municipal elections of this city.

244 **SECTION 2.12.**

245 Vacancy; filling of vacancies; suspensions.

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

250 (b) Filling of vacancies. A vacancy in the office of mayor or councilmember shall be filled
 251 for the remainder of the unexpired term, if any, by appointment if less than 24 months remain
 252 in the unexpired term, otherwise by an election as provided for in Section 5.14 of this charter
 253 and Titles 21 and 45 of the O.C.G.A, or such other laws as are or may hereafter be enacted.

254 (c) Suspension. Upon the suspension from office of mayor or councilmember in any manner
 255 authorized by the general laws of the State of Georgia, the city council or those remaining
 256 shall appoint a successor for the duration of the suspension. If the suspension becomes
 257 permanent, then the office shall become vacant and shall be filled for the remainder of the
 258 unexpired term, if any, as provided for in this charter.

259 **SECTION 2.13.**

260 Compensation and expenses.

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

263

SECTION 2.14.

264

Holding other office; voting when personally interested.

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

267 (b) Conflict of interest. No elected official, appointed officer, or employee of the city or any
268 agency or political entity to which this charter applies shall knowingly:

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

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

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

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

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

290 (6) Vote or otherwise participate in the negotiation or in the making of any contract with
291 any business or entity in which that person has a financial interest.

292 (c) Disclosure. Any elected official, appointed officer, or employee who shall have any
293 financial interest, directly or indirectly, in any contract or matter pending before or within
294 any department of the city shall disclose such interest to the city council. The mayor or any
295 councilmember who has a financial interest in any matter pending before the city council
296 shall disclose such interest and such disclosure shall be entered on the records of the city
297 council, and that official shall disqualify himself or herself from participating in any decision
298 or vote relating thereto. Any elected official, appointed officer, or employee of any agency

299 or political entity to which this charter applies who shall have any financial interest, directly
 300 or indirectly, in any contract or matter pending before or within such entity shall disclose
 301 such interest to the governing body of such agency or entity.

302 (d) Use of public property. No elected official, appointed officer, or employee of the city
 303 or any agency or entity to which this charter applies shall use property owned by such
 304 governmental entity for personal benefit or profit but shall use such property only in their
 305 capacity as an officer or employee of the city.

306 (e) Contracts voidable and rescindable. Any violation of this section, which occurs with the
 307 knowledge, express or implied, of a party to a contract or sale shall render such contract or
 308 sale voidable at the option of the city council.

309 (f) Ineligibility of elected official. Except where authorized by law, neither the mayor nor
 310 any councilmember shall hold any other elective or compensated appointive office in the city
 311 or otherwise be employed by said government or any agency thereof during the term for
 312 which that person was elected. No former councilmember and no former mayor shall hold
 313 any compensated appointive office in the city until one year after the expiration of the term
 314 for which that person was elected.

315 (g) Political activities of certain officers and employees. No appointive officer of the city
 316 shall continue in such employment upon qualifying as a candidate for nomination or election
 317 to any public office. No employee of the city shall continue in such employment upon
 318 qualifying for or election to any public office in this city or any other public office which is
 319 inconsistent, incompatible or in conflict with the duties of the city employee. Such
 320 determination shall be made by the mayor and council either immediately upon election or
 321 at any time such conflict may arise.

322 (h) Penalties for violation:

323 (1) Any city officer or employee who knowingly conceals such financial interest or
 324 knowingly violates any of the requirements of this section shall be guilty of malfeasance
 325 in office or position and shall be deemed to have forfeited that person's office or position.

326 (2) Any officer or employee of the city who shall forfeit that person's office or position as
 327 described in paragraph (1) of this subsection shall be ineligible for appointment or election
 328 to or employment in a position in the city government for a period of three years thereafter.

329 **SECTION 2.15.**

330 **Inquiries and investigations.**

331 Following the adoption of an authorizing resolution, the city council may make inquiries and
 332 investigations into the affairs of the city and conduct of any department, office, or agency
 333 thereof and for this purpose may subpoena witnesses, administer oaths, take testimony, and

334 require the production of evidence. Any person who fails or refuses to obey a lawful order
335 issued in the exercise of these powers by the city council shall be punished as may be
336 provided by ordinance.

337 **SECTION 2.16.**

338 General power and authority of the city council.

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

341 (b) In addition to all other powers conferred upon it by law, the council shall have the
342 authority to adopt and provide for the execution of such ordinances, resolutions, rules and
343 regulations, not inconsistent with this charter and the Constitution and the laws of the State
344 of Georgia, which it shall deem necessary, expedient, or helpful for the peace, good order,
345 protection of life and property, health, welfare, sanitation, comfort, convenience, prosperity,
346 or well being of the inhabitants of the City of Emerson and may enforce such ordinances by
347 imposing penalties for violation thereof.

348 **SECTION 2.17.**

349 Eminent domain.

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

358 **SECTION 2.18.**

359 Oaths.

360 The oath of office shall be administered by the city clerk or other designee to the newly
361 elected members as follows:

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

365 "I am not the holder of any unaccounted for public money due this state or any political
366 subdivision or authority thereof. I am not the holder of any office of trust under the
367 government of the United States, any other state, or any foreign state which I by the laws
368 of the State of Georgia am prohibited from holding. I am otherwise qualified to hold said
369 office according to the Constitution and laws of Georgia. I have been a resident of the City
370 of Emerson for the time required by the Constitution and laws of this state and by the
371 municipal charter. I will perform the duties of my office in the best interest of the City of
372 Emerson to the best of my ability without fear, favor, affection, reward, or expectation
373 thereof."

374 **SECTION 2.19.**

375 Regular and special meetings.

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

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

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

391 **SECTION 2.20.**

392 Rules of procedure.

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

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

399 **SECTION 2.21.**

400 Quorum; voting.

401 (a) Three members of the city council shall constitute a quorum and shall be authorized to
402 transact business of the city council. Voting on the adoption of ordinances shall be by voice
403 vote, and the vote shall be recorded in the journal, but any member of the city council shall
404 have the right to request a roll-call vote, and such vote shall be recorded in the journal.
405 Except as otherwise provided in this charter, the affirmative vote of three members of the city
406 council shall be required for the adoption of any ordinance, resolution, or motion.

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

414 (c) For purposes of establishing a quorum and voting, the mayor shall be deemed to be a
415 member of the city council.

416 **SECTION 2.22.**

417 Ordinance form; procedures.

418 (a) Every proposed ordinance should be introduced in writing and in the form required for
419 final adoption. No ordinance shall contain a subject which is not expressed in its title. The
420 enacting clause shall be, "It is hereby ordained by the governing authority of the City of
421 Emerson ..." and every ordinance shall so begin.

422 (b) An ordinance may be introduced by the mayor or any member of the city council and be
423 read at a regular or special meeting of the city council. Ordinances shall be considered and
424 adopted or rejected by the city council in accordance with the rules which it shall establish;
425 provided, however, that an ordinance shall not be adopted the same day it is introduced,
426 except for emergency ordinances provided for in Section 2.24 of this charter. Upon
427 introduction of any ordinance, the clerk shall as soon as possible distribute a copy to the

428 mayor and to each councilmember and shall file a reasonable number of copies in the office
429 of the clerk and at such other public places as the city council may designate.

430 **SECTION 2.23.**

431 Action requiring an ordinance.

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

434 **SECTION 2.24.**

435 Emergencies.

436 (a) To meet a public emergency affecting life, health, property, or public peace, the city
437 council may convene on call of the mayor or three councilmembers and may promptly adopt
438 an emergency ordinance, but such ordinance shall not levy taxes; grant, renew, or extend a
439 franchise; regulate the rate charged by any public utility for its services; or authorize the
440 borrowing of money except for loans to be repaid within thirty (30) days. An emergency
441 ordinance shall be introduced in the form prescribed for ordinances generally, except that it
442 shall be plainly designated as an emergency ordinance and shall contain, after the enacting
443 clause, a declaration stating that an emergency exists and describing the emergency in clear
444 and specific terms. An emergency ordinance may be adopted, with or without amendment,
445 or rejected at the meeting at which it is introduced, but the affirmative vote of at least three
446 (3) councilmembers shall be required for adoption. It shall become effective upon adoption
447 or at such later time as it may specify. Every emergency ordinance shall automatically stand
448 repealed thirty (30) days following the date upon which it was adopted, but this shall not
449 prevent reenactment of the ordinance in the manner specified in this section if the emergency
450 still exists. An emergency ordinance may also be repealed by adoption of a repealing
451 ordinance in the same manner specified in this section for adoption of emergency ordinances.
452 (b) Such meetings shall be open to the public to the extent required by law and notice to the
453 public of emergency meetings shall be made as fully as is reasonably possible in accordance
454 with Code Section 50-14-1 of the O.C.G.A., or such other applicable laws as are or may
455 hereafter be enacted.

456

SECTION 2.25.

457

Codes of technical regulations.

458 (a) The city council may adopt any standard code of technical regulations by reference
459 thereto in an adopting ordinance. The procedure and requirements governing such adopting
460 ordinance shall be as prescribed for ordinances generally except that:

461 (1) The requirements of subsection (b) of Section 2.22 of this charter for distribution and
462 filing of copies of the ordinance shall be construed to include copies of any code of
463 technical regulations, as well as the adopting ordinance; and

464 (2) A copy of each adopted code of technical regulations, as well as the adopting
465 ordinance, shall be authenticated and recorded by the clerk pursuant to Section 2.26 of this
466 charter.

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

469

SECTION 2.26.

470

Signing; authenticating; recording; codification; printing.

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

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

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

490 **SECTION 2.27.**

491 City manager; appointment; qualifications; compensation.

492 The city council shall appoint a city manager for an indefinite term and shall fix the city
493 manager's compensation. The city manager shall be appointed solely on the basis of that
494 person's executive and administrative qualifications.

495 **SECTION 2.28.**

496 Removal of city manager.

497 The city manager is employed at will and may be summarily removed from office at any time
498 by the city council.

499 **SECTION 2.29.**

500 Acting city manager.

501 By letter filed with the city clerk, the city manager shall designate, subject to approval of the
502 city council, a qualified city administrative officer to exercise the powers and perform the
503 duties of city manager during the city manager's temporary absence or physical or mental
504 disability. During such absence or disability, the city council may revoke such designation
505 at any time and appoint another officer of the city to serve until the city manager shall return
506 or the city manager's disability shall cease.

507 **SECTION 2.30.**

508 Powers and duties of the city manager.

509 The city manager shall be the chief administrative officer of the city. The city manager shall
510 be responsible to the city council for the administration of all city affairs placed in the city
511 manager's charge by or under this charter. As the chief administrative officer, the city
512 manager shall:

513 (1) Appoint and, when the city manager deems it necessary for the good of the city,
514 suspend or remove all city employees and administrative officers the city manager
515 appoints, except as otherwise provided by law or personnel ordinances adopted pursuant
516 to this charter. The city manager may authorize any administrative officer who is subject
517 to the city manager's direction and supervision to exercise these powers with respect to
518 subordinates in that officer's department, office, or agency;

- 519 (2) Direct and supervise the administration of all departments, offices, and agencies of the
 520 city, except as otherwise provided by this charter or by law;
- 521 (3) Attend all city council meetings, unless otherwise excused therefrom, except for closed
 522 meetings held for the purposes of deliberating on the appointment, discipline, or removal
 523 of the city manager, and have the right to take part in discussion, but the city manager may
 524 not vote;
- 525 (4) See that all laws, provisions of this charter, and acts of the city council, subject to
 526 enforcement by the city manager or by officers subject to the city manager's direction and
 527 supervision, are faithfully executed;
- 528 (5) Prepare and submit the annual operating budget and capital budget to the mayor;
- 529 (6) Submit to the city council and make available to the public a complete report on the
 530 finances and administrative activities of the city as of the end of each fiscal year;
- 531 (7) Make such other reports as the city council may require concerning the operations of
 532 city departments, offices, and agencies subject to the city manager's direction and
 533 supervision;
- 534 (8) Keep the city council fully advised as to the financial condition and future needs of the
 535 city, and make such recommendations to the city council concerning the affairs of the city
 536 as the city manager deems desirable; and
- 537 (9) Perform other such duties as are specified in this charter or as may be required by the
 538 city council.

539 **SECTION 2.31.**

540 Council's interference with administration.

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

546 **SECTION 2.32.**

547 Election of mayor; forfeiture; compensation.

548 The mayor shall be elected and shall serve for a term of four years and until the mayor's
 549 successor is elected and qualified. The mayor shall be a qualified elector of this city and
 550 shall have been a resident of the city for twelve (12) months prior to the election. The mayor
 551 shall continue to reside in this city during the period of the mayor's service. The mayor shall

552 forfeit the office of mayor on the same grounds and under the same procedure as for
 553 councilmembers. The compensation of the mayor shall be established in the same manner
 554 for councilmembers.

555 **SECTION 2.33.**

556 Mayor pro tempore.

557 By a majority vote, the councilmembers shall elect a councilmember to serve as mayor pro
 558 tempore. The mayor pro tempore shall assume the duties and powers of the mayor during
 559 the mayor's physical or mental disability or absence. The mayor pro tempore shall continue
 560 to vote and otherwise participate as a councilmember. Any such disability or absence shall
 561 be declared by a majority vote of the councilmembers. The mayor pro tempore shall sign all
 562 contracts and ordinances in which the mayor has a disqualifying financial interest as
 563 provided in Section 2.14 of this charter.

564 **SECTION 2.34.**

565 Powers and duties of mayor.

566 The mayor shall be the chief executive officer of the city. As the chief executive officer, the
 567 mayor shall:

- 568 (1) Preside at all meetings of the city council;
- 569 (2) Be the head of the city for the purpose of service of process and for ceremonial
 570 purposes and be the official spokesperson for the city and the chief advocate of policy;
- 571 (3) Have the power to administer oaths and to take affidavits;
- 572 (4) Sign as a matter of course on behalf of the city all written and approved contracts,
 573 ordinances, and other instruments executed by the city, which by law are required to be in
 574 writing;
- 575 (5) Vote on matters before the city council and be counted toward a quorum as any other
 576 councilmember;
- 577 (6) Prepare and submit to the city council a recommended annual operating budget and
 578 recommended capital budget; and
- 579 (7) Fulfill such other executive duties as the city council shall by ordinance establish.

613 (d) Except as otherwise provided by charter or by law, no member of any board,
614 commission, or authority shall hold any elective office in the city.

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

618 (f) No member of a board, commission, or authority shall assume office until that person has
619 executed and filed with the clerk of the city an oath obligating that person to perform
620 faithfully and impartially the duties of that person's office, and such oath shall be prescribed
621 by ordinance and administered by the mayor.

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

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

632 **SECTION 3.12.**

633 City attorney.

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

642 (b) The city attorney is not a public official of the city and does not take an oath of office.
643 The city attorney shall at all times be an independent contractor. A law firm, rather than an
644 individual, may be designated as the city attorney.

645 **SECTION 3.13.**

646 City clerk.

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

651 **SECTION 3.14.**

652 Position classification and pay plans.

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

659 **SECTION 3.15.**

660 Personnel policies.

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

663 **ARTICLE IV**
664 **JUDICIAL BRANCH**

665 **SECTION 4.10.**

666 Creation; name.

667 There shall be a court to be known as the Municipal Court of the City of Emerson.

668 **SECTION 4.11.**

669 Chief judge; associate judge.

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

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

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

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

679 (e) Before assuming office, each judge shall take an oath, given by the mayor, that such
680 judge will honestly and faithfully discharge the duties of the judge's office to the best of the
681 judge's ability and without fear, favor, or partiality. The oath shall be entered upon the
682 minutes of the city council journal.

683 **SECTION 4.12.**

684 Convening.

685 The municipal court shall be convened at regular intervals.

686 **SECTION 4.13.**

687 Jurisdiction; powers.

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

690 (b) The municipal court shall have authority to punish those in its presence for contempt,
691 provided that such punishment shall not exceed two hundred dollars (\$200.00) or ten (10)
692 days in jail.

693 (c) The municipal court may fix punishment for offenses within its jurisdiction not
694 exceeding a fine of two thousand five hundred dollars (\$2,500.00) or imprisonment for
695 twelve (12) months or both such fine and imprisonment or may fix punishment by fine,
696 imprisonment, or alternative sentencing, as now or hereafter provided by law.

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

700 (e) The municipal court shall have authority to establish bail and recognizances to ensure
701 the presence of those charged with violations before such court and shall have discretionary
702 authority to accept cash or personal or real property as surety for the appearance of persons
703 charged with violations. Whenever any person shall give bail for that person's appearance
704 and shall fail to appear at the time fixed for trial, that person's bond shall be forfeited by the

705 judge presiding at such time and an execution issued thereon by serving the defendant and
 706 the defendants sureties with a rule nisi at least two (2) days before a hearing on the rule nisi.
 707 In the event that cash or property is accepted in lieu of bond for security for the appearance
 708 of a defendant at trial, and if such defendant fails to appear at the time and place fixed for
 709 trial, the cash so deposited shall be on order of the judge declared forfeited to the city, or the
 710 property so deposited shall have a lien against it for the value forfeited which lien shall be
 711 enforceable in the same manner and to the same extent as a lien for city property taxes.

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

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

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

722 **SECTION 4.14.**

723 Certiorari.

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

728 **SECTION 4.15.**

729 Rules for court.

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

765 the term. In all other respects, the special election shall be held and conducted in accordance
766 with Title 21, Chapter 2 of the O.C.G.A., the "Georgia Election Code," as now or hereafter
767 amended.

768 **SECTION 5.15.**

769 Other provisions.

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

773 **SECTION 5.16.**

774 Removal of officers.

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

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

780 (1) Following a hearing at which an impartial panel shall render a decision. In the event
781 an elected officer is sought to be removed by the action of the city council, such officer
782 shall be entitled to a written notice specifying the ground or grounds for removal and to a
783 public hearing, which shall be held not less than ten (10) days after the service of such
784 written notice. The city council shall provide by ordinance for the manner in which such
785 hearings shall be held. Any elected officer sought to be removed from office as provided
786 in this section shall have the right of appeal from the decision of the city council to the
787 Superior Court of Bartow County. Such appeal shall be governed by the same rules as
788 govern appeals to the superior court from the probate court; or

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

820 **SECTION 6.14.**

821 Franchises.

822 (a) The city council shall have the power to grant franchises for the use of this city's streets
823 and alleys for the purposes of railroads, street railways, telephone companies, electric
824 companies, electric membership corporations, cable television and other telecommunications
825 companies, gas companies, transportation companies, and other similar organizations. The
826 city council shall determine the duration, terms, whether the same shall be exclusive or
827 nonexclusive, and the consideration for such franchises; provided, however, that no franchise
828 shall be granted for a period in excess of thirty-five (35) years and no franchise shall be
829 granted unless the city receives just and adequate compensation therefor. The city council
830 shall provide for the registration of all franchises with the city clerk in a registration book
831 kept by the city clerk. The city council may provide by ordinance for the registration within
832 a reasonable time of all franchises previously granted.

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

838 **SECTION 6.15.**

839 Service charges.

840 The city council by ordinance shall have the power to assess and collect fees, charges,
841 assessments, and tolls for sewers, sanitary and health services, or any other services provided
842 or made available within and outside the corporate limits of the city. If unpaid, such charges
843 shall be collected as provided in Section 6.18 of this charter.

844 **SECTION 6.16.**

845 Special assessments.

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

850 **SECTION 6.17.**

851 Construction; other taxes.

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

855 **SECTION 6.18.**

856 Collection of delinquent taxes and fees.

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

864 **SECTION 6.19.**

865 General obligation bonds.

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

870 **SECTION 6.20.**

871 Revenue bonds.

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

875 **SECTION 6.21.**

876 Short-term loans.

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

879 **SECTION 6.22.**

880 Lease-purchase contracts.

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

888 **SECTION 6.23.**

889 Fiscal year.

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

894 **SECTION 6.24.**

895 Budget ordinance.

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

900 **SECTION 6.25.**

901 Operating budget.

902 On or before a date fixed by the city council but not later than fifteen (15) days prior to the
903 beginning of each fiscal year, the mayor shall submit to the city council a proposed operating
904 budget for the ensuing fiscal year. The budget shall be accompanied by a message from the
905 mayor containing a statement of the general fiscal policies of the city, the important features
906 of the budget, explanations of major changes recommended for the next fiscal year, a general
907 summary of the budget, and other pertinent comments and information. The operating
908 budget and the capital budget provided for in Section 6.29 of this charter, the budget
909 message, and all supporting documents shall be filed in the office of the city clerk and shall
910 be open to public inspection.

911 **SECTION 6.26.**

912 Action by city council on budget.

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

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

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

931 **SECTION 6.27.**

932 Levy of taxes.

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

939 **SECTION 6.28.**

940 Changes in appropriations.

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

945 **SECTION 6.29.**

946 Capital budget.

947 (a) On or before the date fixed by the city council, but not later than fifteen (15) days prior
 948 to the beginning of each fiscal year, the mayor shall submit to the city council a proposed
 949 capital improvements plan with a recommended capital budget containing the means of
 950 financing the improvements proposed for the ensuing fiscal year. The city council shall have
 951 power to accept, with or without amendments, or reject the proposed plan and budget. The
 952 city council shall not authorize an expenditure for the construction of any building, structure,
 953 work, or improvement unless the appropriations for such project are included in the capital
 954 budget, except to meet a public emergency as provided in Section 2.24 of this charter.

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

962 **SECTION 6.30.**

963 Audits.

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

969 **SECTION 6.31.**

970 Contracting procedures.

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

- 972 (1) It is in writing;
- 973 (2) It is drawn by or submitted and reviewed by the city attorney and, as a matter of
 974 course, is signed by the city attorney to indicate such drafting or review; and
- 975 (3) It is made or authorized by the city council and such approval is entered in the city
 976 council journal of proceedings pursuant to Section 2.21 of this charter.

977 **SECTION 6.32.**

978 Purchasing.

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

981 **SECTION 6.33.**

982 Sale and lease of property.

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

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

989 (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place
 990 of the city a small parcel or tract of land is cut off or separated by such work from a larger
 991 tract or boundary of land owned by the city, the city council may authorize the city manager

992 to sell and convey said cut-off or separated parcel or tract of land to an abutting or adjoining
 993 property owner or owners where such sale and conveyance facilitates the highest and best
 994 use of the abutting owner's property. Included in the sales contract shall be a provision for
 995 the rights of way of said street, avenue, alley, or public place. Each abutting property owner
 996 shall be notified of the availability of the property and given the opportunity to purchase said
 997 property under such terms and conditions as set out by ordinance. All deeds and
 998 conveyances heretofore and hereafter so executed and delivered shall convey all title and
 999 interest the city has in such property, notwithstanding the fact that no public sale after
 1000 advertisement was or is hereafter made.

1001 **ARTICLE VII**

1002 **GENERAL PROVISIONS**

1003 **SECTION 7.10.**

1004 Bonds for officials.

1005 The officers and employees of this city, both elected and appointed, shall execute such surety
 1006 or fidelity bonds in such amounts and upon such terms and conditions as the city council
 1007 shall from time to time require by ordinance or as may be provided by law.

1008 **SECTION 7.11.**

1009 Existing ordinances, resolutions, rules, and regulations.

1010 Existing ordinances, resolutions, rules, and regulations of this city not in conflict with this
 1011 charter shall continue in force, unless repealed or amended, for two years from the effective
 1012 date of this charter. During such two-year period, the city council shall review all such
 1013 provisions and shall readopt, repeal, or amend each, so that a codification as provided by
 1014 subsection (b) of Section 2.26 of this charter is accomplished.

1015 **SECTION 7.12.**

1016 Pending matters.

1017 Except as specifically provided otherwise by this charter, all rights, claims, actions, orders,
 1018 contracts, and legal or administrative proceedings shall continue and any such ongoing work
 1019 or cases shall be completed by such city agencies, personnel, or offices as may be provided
 1020 by the city council.

SECTION 7.13.

Construction and definitions.

1023 (a) Section captions in this charter are informative only and are not to be considered as a part
1024 thereof.

1025 (b) The word "shall" is mandatory and the word "may" is permissive.

1026 (c) The singular shall include the plural, the masculine shall include the feminine, and vice
1027 versa.

1028 (d) Except as specifically provided otherwise by this charter, the term:

1029 (1) "City council" means the members of the city council and the mayor.

1030 (2) "Councilmember" means a member of the city council other than the mayor.

SECTION 7.14.

Severability.

1033 If any article, section, subsection, paragraph, sentence, or part thereof of this charter shall be
1034 held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect
1035 or impair other parts of this charter unless it clearly appears that such other parts are wholly
1036 and necessarily dependent upon the part held to be invalid or unconstitutional, it being the
1037 legislative intent in enacting this charter that each article, section, subsection, paragraph,
1038 sentence, or part thereof be enacted separately and independent of each other.

SECTION 7.15.

Specific repealer.

1041 An Act to provide a new charter for the City of Emerson, approved March 24, 1988
1042 (Ga. L. 1988, p. 4549), and all amendatory Acts thereto are hereby repealed.

SECTION 7.16.

Effective date.

1045 This Act shall become effective upon its approval by the Governor or upon its otherwise
1046 becoming law without such approval.

1047

SECTION 7.17.

1048

General repealer.

1049 All laws and parts of laws in conflict with this Act are repealed.