

House Bill 515 (AS PASSED HOUSE AND SENATE)

By: Representatives Mitchell of the 88th, Holcomb of the 81st, and Henson of the 86th

A BILL TO BE ENTITLED
AN ACT

To incorporate the City of Tucker in DeKalb County; to provide for a charter for the City of Tucker to provide for incorporation, boundaries, and powers of the city; to provide for general powers and limitations on powers; to provide for a governing authority of such city and the powers, duties, authority, election, terms, method of filling vacancies, compensation, expenses, qualifications, prohibitions, and districts relative to members of such governing authority to provide for inquiries and investigations; to provide for organization and procedures; to provide for ordinances; to provide for codes; to provide for a charter commission; to provide for the office of mayor and certain duties and powers relative to the office of mayor; to provide for administrative responsibilities; to provide for boards, commissions, courts, and authorities; to provide for a city manager, a city attorney, a city clerk, a tax collector, a city accountant, and other personnel; to provide for a municipal court and the judge or judges thereof; to provide for practices and procedures; to provide for ethics and disclosures; to provide for taxation, licenses, and fees; to provide for franchises, service charges, and assessments; to provide for bonded and other indebtedness; to provide for accounting and budgeting; to provide for purchases; to provide for homestead exemptions; to provide for bonds for officials; to provide for other matters relative to the foregoing; to provide for a referendum; to provide effective dates and transitional provisions governing the transfer of various functions and responsibilities from DeKalb County to the City of Tucker; to provide for severability; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA

ARTICLE I

CREATION, INCORPORATION, AND POWERS

SECTION 1.01.

Incorporation.

This Act shall constitute the charter of the City of Tucker, Georgia. The City of Tucker, Georgia, in the County of DeKalb, and the inhabitants thereof, are constituted and declared a body politic and corporate under the same name and style of the "City of Tucker" and by that name shall have perpetual succession, may sue and be sued, plead and be impleaded, in all courts of law and equity, and in all actions whatsoever, and may have and use a common seal for all other purposes as authorized by the laws of the State of Georgia and the Constitution of the State of Georgia.

SECTION 1.02.

Corporate boundaries.

The boundaries of the City of Tucker shall be those set forth and described in Appendix A of this charter, and such Appendix A is incorporated into and made a part of this charter. The city clerk shall maintain a current map and written legal description of the corporate boundaries of the city, and such map and description shall incorporate any changes which may hereafter be made in such corporate boundaries.

SECTION 1.03.

Powers and construction.

(a) Except as provided in subsection (b) of this section, the city shall have the following powers:

- (1) Animal regulations. To regulate and license or to prohibit the keeping or running at-large of animals and fowl, and to provide for the impoundment of same if in violation of any ordinance or lawful order; to provide for the disposition by sale, gift, or humane destruction of animals and fowl when not redeemed as provided by ordinance; and to provide punishment for violation of ordinances enacted hereunder;
- (2) Appropriations and expenditures. To make appropriations for the support of the government of the city; to authorize the expenditure of money for any purposes

authorized by this charter and for any purpose for which a municipality is authorized by the laws of the State of Georgia; and to provide for the payment of expenses of the city;

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

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

(5) Condemnation.

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

(B) To condemn and cause to be remediated or removed any building, structure, or existing condition within its corporate limits that is dangerous to life, limb, or property, by reasons of decay, dilapidation, or unsanitary condition. Nothing in this subparagraph shall be construed to relieve the city of any duty to give owners or interested persons reasonable notice and opportunity to remedy the situation. Nothing in this subparagraph shall be construed as relieving the city of liability to any owner or interested person for damages to person or property taken or destroyed in furtherance of this subparagraph. This subparagraph shall not be construed as authorizing the doing of any act or thing contrary to the Constitution of this state and the policy of the general laws of this state. The city shall have authority to adopt reasonable ordinances and resolutions for the purpose of carrying out this subparagraph;

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

(7) Emergencies. To establish procedures for determining and proclaiming that an emergency situation exists within or without the city and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health, or well-being of the citizens of the city;

(8) Environmental protection. To protect and preserve the natural resources,

environment, and vital areas of the city, the region, and the state through the enactment of ordinances that preserve and improve air quality, restore and maintain water resources, control erosion and sedimentation manage storm water and establish a storm-water utility, manage solid and hazardous waste, and provide other necessary or beneficial actions for the protection of the environment;

(9) Ethics. To adopt ethics ordinances and regulations governing such things as, but not limited to, the conduct of municipal elected officials, appointed officials, contractors, vendors, and employees; establishing procedures for ethics complaints; and setting forth penalties for violations of such rules and procedures;

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

(11) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection and

disposal and other sanitary service charge, tax, or fee for such services as may be necessary in the operation of the city from all individuals, firms, and corporations residing in or doing business therein benefiting from such services; to enforce the payment of such charges, taxes, or fees; and to provide for the manner and method of collecting such service charges, taxes, or fees;

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

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

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

(15) Homestead exemption. To establish and maintain procedures for offering homestead exemptions to residents of the city and maintaining current homestead exemptions of residents of the city as authorized by Act of the General Assembly;

(16) Jail sentences. To provide that persons given jail sentences in the city's court may work out such sentences in any public works or on the streets, roads, drains, and other public property in the city; to provide for commitment of such persons to any jail; to provide for the use of pretrial diversion and any alternative sentencing allowed by

Georgia law; or to provide for commitment of such persons to any county work camp or county jail by agreement with the appropriate county officials;

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

(18) Municipal agencies and delegation of power. To create, alter, or abolish departments, boards, offices not specified in this charter, commissions, authorities, and agencies of the city and to confer upon such agencies the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same;

(19) Municipal courts. To create a municipal court with a judge or judge and associate judges as may be necessary and to authorize the creation of a municipal court clerk's office or make said clerk's duties a part of the duties of the city clerk as designated by the city council;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(34) Retirement and employee benefits. To provide and maintain a retirement plan, insurance, and such other employee benefits for appointed officers and employees of the city, as are determined by the city council;

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

failure to do so;

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

(37) Special assessments. To levy and provide for the collection of special assessments to cover the costs for any public improvements, such as referendum;

(38) Taxes: ad valorem. To levy and provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation to a maximum of 1 mill without a referendum;

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

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

(41) Tourism, conventions, and trade shows. To provide for the structure, operation, and management of the Tucker Convention and Visitors Bureau created pursuant to Section 1.05 of this charter and to authorize the City of Tucker to contract with private sector nonprofit organizations or other governmental agencies to promote tourism, conventions, and trade shows;

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

(43) Other powers. To exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the city and its inhabitants; to exercise all implied powers necessary or desirable to carry into execution all powers granted in this charter as fully and completely as if such powers were fully stated herein; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia; and any listing of particular powers in this charter shall not be held to be exclusive of others or restrictive of general words and phrases granting powers but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

(b) Except as provided in subsection (c) of this section, the city shall exercise the powers enumerated in subsection (a) of this section only for the purposes of planning and zoning, code adoption and enforcement, and parks and recreation services and those items directly

related to the provision of such services and for the general administration of the city in the providing such services.

(c) In the event that the city desires to provide services in addition to those services enumerated in subsection (b) of this section, the city council shall pass a resolution specifically stating the services sought to be offered by the city and shall submit such resolution for ratification by the electors of the city in a referendum. If the electors of the city vote in the favor of ratifying such resolution, then the city shall be authorized to exercise the powers enumerated in subsection (a) of this section for the purpose of providing such services stated in such resolution and those items directly related to the provision of such services and for the general administration of the city in providing such services. If the electors of the city disapprove such resolution, such resolution shall immediately be null and void and no force and effect.

SECTION 1.04.

Exercise of powers.

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

SECTION 1.05.

Tourism, conventions, and trade shows.

The Tucker Convention and Visitors Bureau is hereby authorized to be created by an ordinance of the city council. When created, the bureau shall consist of a board of seven members appointed by the city council. The bureau shall report to the city manager on a regular basis and shall send an annual report to the city council in January of each year.

ARTICLE II

GOVERNMENT STRUCTURE, ELECTIONS, AND LEGISLATIVE BRANCH

SECTION 2.01.

City council creation; number; election.

(a) The legislative authority of the government of the City of Tucker, except as otherwise specifically provided in this charter, shall be vested in a city council of which the mayor shall be a voting member.

(b) (1) The city council of the City of Tucker shall consist of six members, plus the mayor.

(2) There shall be three council districts, designated as Council Districts 1 through 3,

as described in Appendix B of this charter, which is attached to and made a part of this charter of the City of Tucker.

(3) Two councilmembers shall be elected from each of the three council districts and shall hold Council District 1, Post 1; Council District 1, Post 2; Council District 2, Post 1; Council District 2, Post 2; Council District 3, Post 1; and Council District 3, Post 2, respectively. Each person desiring to offer as a candidate for councilmember for such posts shall designate the council post for which he or she is offering. Councilmembers shall be elected by a majority vote of the qualified electors of the respective council districts voting at the elections of the city. In the event that no candidate for a council post obtains a majority vote of the qualified electors of the council district voting in the election, then a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election for such council post shall be included in the run-off election. The person receiving the highest number of votes of the qualified electors of the council district voting at such run-off election shall be elected. Each candidate for election to the city council shall reside in the district which he or she seeks to represent.

(c) With the exception of the initial terms set forth in subsection (d) of this section, councilmembers shall be elected to terms of four years and until their respective successors are elected and qualified on a staggered basis in alternate election cycles such that every two years three councilmembers are up for election.

(d) In order to assure staggered elections of the councilmembers, in the first election of the city council, the terms for the candidates elected for Council District 1, Post 1; Council District 2, Post 1; and Council District 3, Post 1 shall expire upon the administration of the oath of office to their successors elected in the regular elections held in November, 2017, as provided in subsection (b) of Section 2.02 of this charter. The terms for the candidates elected for Council District 1, Post 2; Council District 2, Post 2; and Council District 3, Post 2 shall expire upon the administration of the oath of office to their successors elected in the regular elections held in November, 2019, as provided in subsection (b) of Section 2.02 of this charter. Thereafter, a successor to each councilmember shall be elected at the November election immediately preceding the end of such councilmember's term of office, and the term of each councilmember shall expire upon the administration of the oath of office to his or her successor.

(e) With the exception of the initial term of office, the mayor of the City of Tucker, with the powers and duties specified in this charter, shall be elected to a term of four years and until his or her successor is elected and qualified. The mayor shall be elected by a majority vote of the qualified electors of the city at large voting at the elections of the city. In the event that no candidate for mayor obtains a majority vote of the qualified electors of the city at large voting at the elections of the city, then a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election shall be included in the run-off election, and the candidate receiving the highest number of votes in the runoff of the qualified electors of the city at large voting in such

runoff shall be elected. The term of the first elected mayor shall expire upon the administration of the oath of office to his or her successor elected in the regular election held in November, 2017, as provided in subsection(b)ofSection2.02ofthischarter. Thereafter, a successor to each mayor shall be elected at the November election immediately preceding the end of such mayor's term of office and the term of each mayor shall expire upon the administration of the oath of office to his of her successor.

SECTION 2.02.

Mayor and councilmembers; terms and qualifications for office.

- (a) For all elections subsequent to the first election, the mayor and councilmembers shall serve for terms of four years and until their terms shall expire upon the administration of the oath of office to their respective successors. No person shall be eligible to serve as mayor or councilmember unless that person shall have been a resident of the City of Tucker for a continuous period of at least 12 months immediately prior to the date of election for mayor or councilmember, shall continue to reside therein during that person's period of service, and shall continue to be registered and qualified to vote in municipal elections of the City of Tucker. In addition to the above requirements, no person shall be eligible to serve as a councilmember representing a council district unless that person continues to reside in such district during that person's period of service
- (b) An election shall be held on the date of and in conjunction with the 2016 presidential preference primary to elect the first mayor and city council. At such election, the first mayor and council shall be elected to serve for the initial terms of office specified in subsections (d) and (e) of Section 2.01. Thereafter, the time for holding regular municipal elections shall be on the Tuesday after the first Monday in November of each odd-numbered year beginning in 2017.
- (c) The number of successive terms an individual may hold a position as a councilmember shall be limited to two terms.
- (d) The number of successive terms an individual may hold the position of mayor shall be limited to three terms.

SECTION 2.03.

Vacancy; filling of vacancies; suspensions.

- (a) Elected officials of the city shall not hold other elective or public offices. The elective offices of the city's government shall become vacant upon the incumbent's death, resignation, removal, or forfeiture of office. The following shall result in an elected city official forfeiting his or her office.
 - (1) Failing to reside in the city or the district from which such person was elected;
 - (2) Being convicted of, or pleading guilty or nolo contendere to, a felony or any

- misdemeanor involving theft or deception; or
- (3) Failing to attend one-third of the regular meetings of the council in a three-month period without being excused by the council.
- (b) The office of mayor shall become vacant upon the incumbent's death, resignation, forfeiture of office, or removal from office in any manner authorized by this charter or the general laws of the State of Georgia. A vacancy in the office of mayor shall be filled for the remainder of the unexpired term by a special election if such vacancy occurs 12 months or more prior to the expiration of the term of that office. If such vacancy occurs within 12 months of the expiration of the term of that office, the city council or those members remaining shall appoint a successor for the remainder of the term. This provision shall also apply to a temporary vacancy created by the suspension from office of the mayor.
- (c) The office of a councilmember shall become vacant upon the incumbent's death, resignation, forfeiture of office, or removal from office in any manner authorized by this charter or the general laws of the State of Georgia. A vacancy in the office of a councilmember shall be filled for the remainder of the unexpired term by a special election if such vacancy occurs 12 months or more prior to the expiration of the term of that office. If such vacancy occurs within 12 months of the expiration of the term of that office, the mayor shall appoint a successor for the remainder of the term, subject to the approval of the city council or those members remaining. This provision shall also apply to a temporary vacancy created by the suspension from office of a councilmember.

SECTION 2.04.

Nonpartisan elections.

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

SECTION 2.05.

Election votes

The candidate for mayor who receives the majority vote of the qualified electors of the city at large voting in the elections of the city and the candidates for the city council who receive the majority vote of the qualified electors of their respective districts voting in the elections of the city shall be elected to a term of office.

SECTION 2.06.

Applicability of general laws; qualifying; other provisions.

All elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A, the "Georgia Election Code," as now or hereafter amended or otherwise provided by law. Except as otherwise provided by this charter, the city council shall, by ordinance or resolution, prescribe such rules and regulations as it deems appropriate, including, but not limited to, the establishment of qualifying fees, to fulfill any options and duties under Chapter 2 of Title 21 of the O.C.G.A, the "Georgia Election Code," as now or hereafter amended or otherwise provided by law.

SECTION 2.07.

Compensation and expenses.

The annual salary of the mayor shall be \$20,000.00, and the annual salary for each councilmember shall be \$14,000.00. Such salaries shall be paid from municipal funds in monthly installments. The mayor shall be provided an annual expense allowance of \$5,000.00 and each councilmember shall be provided an annual expense allowance of \$3,000.00 for the reimbursement of expenses actually and necessarily incurred by the mayor and councilmembers in carrying out their duties as elected officials of the city.

SECTION 2.08.

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

SECTION 2.09.

Meetings, oath of office, and mayor pro tempore

(a) The city council shall meet on the seventh working day in January immediately following each regular municipal election. The meeting shall be called to order by the mayor-elect, and the oath of office shall be administered to the newly elected mayor and councilmembers collectively by a

judicial officer authorized to administer oaths. The oath shall, to the extent that it comports with federal and state law, be as follows:

"I do solemnly swear or affirm that I will faithfully execute the office of [councilmember or mayor, as the case may be] of the City of Tucker, and will, to the best of my ability, support and defend the Constitution of the United States, the Constitution of the State of Georgia, and the charter, ordinances, and regulations of the City of Tucker. I am not the holder of any unaccounted-for public money due this state or any political subdivision or authority thereof. I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I by the laws of the State of Georgia am prohibited from holding. I am otherwise qualified to hold said office according to the Constitution and laws of Georgia. I have been a resident of my district and the City of Tucker for the time required by the Constitution and laws of this state and by the municipal charter. I will perform the duties of my office in the best interests of the City of Tucker to the best of my ability without fear, favor, affection, reward, or expectation thereof."

(b) Following the induction of the mayor and councilmembers, the city council, by a majority vote of the councilmembers, shall elect a councilmember to be mayor pro tempore, who shall serve for a term of two years and until a successor is elected and qualified. The number of successive terms an individual may hold a position as mayor pro tempore shall be unlimited.

(c) The mayor pro tempore shall assume the duties and powers of the mayor during the mayor's temporary disability, suspension, or absence. If the mayor pro tempore is absent because of sickness or disqualification, any one of the remaining councilmembers, chosen by the councilmembers present, shall be clothed with all the rights and privileges of the mayor as described in this charter and shall perform the mayor's duties in the same manner as the mayor pro tempore.

(d) The city council shall, at least once a month, hold regular meetings at such times and places as shall be prescribed by ordinance. The city council may recess any regular meeting and continue such meeting on any day or hour it may fix and may transact any business at such continued meeting as may be transacted at any regular meeting.

(e) Special meetings of the city council may be held on call of either the mayor and one councilmember or three councilmembers. Notice of such special meetings shall be delivered to all councilmembers, the mayor, and the city manager personally, by registered mail, or by electronic means at least 24 hours in advance of the meeting. Such notice shall not be required if the mayor, all councilmembers, and the city manager are present when the special meeting is called. Such notice of any special meeting may be waived by the mayor, a councilmember, or the city manager in writing before or after such a meeting, and attendance at the meeting shall also constitute a waiver of notice. The notice of such special meeting shall state what business is to be transacted at the special meeting. Only the business stated in the call may be transacted at the special meeting.

SECTION 2.10.

Quorum; voting.

(a) Four councilmembers shall constitute a quorum and shall be authorized to transact business for the city council. The mayor shall be counted toward the making of a quorum. Voting on the adoption of ordinances shall be taken by voice vote, and the yeas and nays shall be recorded in the minutes, but on the request of any member, there shall be a roll call vote. In order for any ordinance, resolution, motion, or other action of the city council to be adopted, the measure shall receive at least three affirmative votes and shall receive the affirmative votes of a majority of those voting. Notwithstanding any provision to the contrary, no ordinance that effects the land use of parcels in only one district shall be adopted if the ordinance receives a no vote from both councilmembers that have met the residence requirement in that district. In order to effectuate such two-member denial of an adoption of a land use ordinance, a roll call vote must be requested.

(b) Any voting member of the council may abstain from voting on an issue or may recuse himself or herself from voting only when a conflict of interest exists. Such conflict shall be disclosed to the city council and entered on the record. A vote to abstain may be entered by any voting member as a protest under the councilmember's First Amendment rights and shall be reflected as such in the record of the vote. If any councilmember or the mayor is present and eligible to vote on a matter and refuses to do so for a reason he or she will not disclose, he or she shall be deemed to have voted with the majority of the votes of the other councilmembers on the issue involved, provided that if there is a tie in the vote of the voting councilmembers, then the mayor and each councilmember shall be required to vote unless he or she discloses a reason for not voting. The mayor shall have one vote on all matters brought before the council.

(c) The following types of actions require an ordinance in order to have the force of law:

- (1) Adopt or amend an administrative code or establish, alter, or abolish a department, office not specified in this charter, or agency;
- (2) Provide for a fine or other penalty;
- (3) Levy taxes;
- (4) Grant, renew, or extend a franchise
- (5) Regulate a rate for a public utility;
- (6) Authorize the borrowing of money
- (7) Convey, lease, or encumber city land
- (8) Regulate land use and development
- (9) Amend or repeal an ordinance already adopted; and
- (10) Propose and vote on a budget for the fiscal year and to authorize a budget plan for a term beyond the current fiscal year.

(d) The city council shall establish by ordinance procedures for convening emergency meetings. In an emergency, an ordinance may be passed without notice or hearings if the city council passes the ordinance by a three-fourths' vote; provided, however, that the city council shall not in an emergency meeting:

- (1) Levy taxes;
- (2) Grant, renew, or extend a franchise;
- (3) Regulate a rate for a public utility; or

- (4) Borrow money.

SECTION 2.11.

General power and authority of the city council

- (a) Except as otherwise provided by law or by this charter, the city council shall be vested with all the powers of government of the City of Tucker as provided in Article I of this charter.
- (b) In addition to all other powers conferred upon it by law, the city council shall have the authority to adopt and provide for the execution of such ordinances, resolutions, rules, and regulations, not inconsistent with this charter and the Constitution and the laws of the State of Georgia, which it shall deem necessary, expedient, or helpful for the peace, good order, protection of life and property, health, welfare, sanitation, comfort, convenience, prosperity, or well-being of the inhabitants of the City of Tucker and may enforce such ordinances by imposing penalties for violation thereof.

SECTION 2.12.

Administrative and service departments.

- (a) Except for the office of city manager and the positions provided for in this charter, the city council, by ordinance, may establish, abolish, merge, or consolidate offices not specified in this charter, positions of employment, departments, and agencies of the city as it shall deem necessary for the proper administration of the affairs and government of the city. The city council shall prescribe the functions and duties of existing departments, offices, and agencies or of any departments, offices, and agencies created or established under this charter; may provide that the same person shall fill any number of offices and positions of employment; and may transfer or change the functions and duties of offices, positions of employment, departments, and agencies of the city.
- (b) The operations and responsibilities of each department now or hereafter established in the city shall be distributed among such divisions or bureaus as may be provided by ordinance of the city council. Each department shall consist of such officers, employees, and positions as may be provided by this charter or by ordinance and shall be subject to the general supervision and guidance of the mayor and city council.

SECTION 2.13.

Prohibitions.

- (a) No elected official, appointed officer, or employee of the city or any agency or political entity to which this charter applies shall knowingly:
- (1) Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is in conflict with or which is within the scope of the proper discharge of official duties or which would tend to impair the independence of his or her

judgment or action in the performance of official duties;

(2) Engage in or accept private employment or renders services for private interests when such employment or service is incompatible with the proper discharge of official duties or would tend to impair the independence of his or her judgment or action in the performance of official duties;

(3) Disclose confidential information concerning the property, government, or affairs of the governmental body by which engaged without proper legal authorization or use such information to advance the financial or other private interest of himself or herself or others, except as required by law;

(4) Accept any valuable gift, whether in the form of service, loan, object, or promise, from any person, firm, or corporation which to his or her knowledge is interested, directly or indirectly, in any manner whatsoever, in business dealings with the governmental body by which he or she is engaged. As used in this paragraph, the term "valuable" means an amount determined by the city council; provided, however, that the amount shall not exceed \$150.00; or

(5) Vote or otherwise participate in the negotiation or in the making of any contract with any business or entity in which he or she or any member of his or her immediate family has a financial interest.

(b) Any elected official, appointed officer, or employee who has any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city shall disclose such private interest to the city council. As used in this subsection, the term "private financial interest" includes the interest of a spouse, child, or significant other or domestic partner. The mayor or any councilmember who has a private interest in any matter pending before the city council shall disclose in writing such private interest, such disclosure shall be entered on the records of the city council, and he or she shall disqualify himself or herself from participating in any decision or vote relating thereto. Any elected official, appointed officer, or employee of any agency or political entity to which this charter applies who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within such entity shall disclose such private interest to the No elected official, appointed officer, or employee of the city or any agency or entity to which this charter applies shall use property owned by such governmental entity for personal benefit, convenience, or profit, except in accordance with policies promulgated by the city council or the governing body of such agency or entity.

(c) Any violation of this section which occurs with the knowledge, express or implied, of a party to a contract or sale shall render such contract or sale voidable at the option of the city council.

(d) Except as authorized by law, no member of the city council shall hold any other elective city office or be employed by any city or county government during the term for which elected.

(e) Except as authorized by law, no member of the city council shall hold any other elective city office or be employed by any city or county government during the term for which elected.

SECTION 2.14.

Boards, commissions, and authorities

(a) All members of boards, commissions, and authorities of the city shall be nominated by the mayor subject to confirmation by the city council for such terms of office and such manner of appointment as provided by ordinance, except where other appointing authority, term of office, or manner of appointment is prescribed by this charter or by applicable state law. If the city council does not approve of two consecutive nominations by the mayor for the same position, any councilmember may nominate such member subject to confirmation by the city council.

(b) No member of any board, commission, or authority of the city shall hold any elective office in the city. Councilmembers and the mayor, however, may serve as ex officio members of such boards, commissions, or authorities, without a vote.

(c) Any vacancy in office of any member of a board, commission, or authority of the city shall be filled for the unexpired term in the manner prescribed for original appointment, except as otherwise provided by this charter or any applicable law of the State of Georgia.

(d) No member of a board, commission, or authority shall assume office until he or she shall have executed and filed with the designated officer of the city an oath obligating himself or herself to faithfully and impartially perform the duties of his or her office, such oath to be prescribed by ordinance of the city council and administered by the mayor or a judicial officer authorized by law to administer oaths.

(e) Any member of a board, commission, or authority may be removed from office by a vote of a majority of the councilmembers in accordance with state laws.

(f) Members of boards, commissions, and authorities may receive such compensation and expenses in the performance of their official duties as prescribed by ordinance.

(g) Except as otherwise provided by this charter or by applicable state law, each board, commission, or authority of the city government shall elect one of its members as chairperson and one member as vice chairperson for terms of one year and may elect as its secretary one of its own members or may appoint as secretary an employee of the city. Each board, commission, or authority of the city government may establish such bylaws, rules, and regulations, not inconsistent with this charter, ordinances of the city, or applicable state law, as it deems appropriate and necessary for the conduct of its affairs, copies of which shall be filed with the designated officer of the city.

SECTION 2.15.

Ordinance form; procedures.

(a) Every proposed ordinance and resolution shall be introduced in writing, and the city council shall have the authority to approve, disapprove, or amend such ordinance or resolution. A resolution may be passed at the time it is offered, but an ordinance shall not be adopted until the title of such ordinance shall have been read at two city council meetings, provided that the beginning of such meetings be not less than 24 hours nor more than 60 days apart. This requirement of two readings shall not apply to emergency ordinances, to ordinances passed during the first 90 days from the date on which the city begins operation, or to ordinances adopted at the first meeting of the initial city council as elected under subsection (b) of Section 2.02 of this charter. The catchlines of sections of this charter or any ordinance printed in boldface type, italics, or otherwise are intended as mere catchwords to indicate the contents of the section and:

- (1) Shall not be deemed or taken to be titles of such sections or as any part of the section;
and
- (2) Shall not be so deemed when any of such sections, including the catchlines, are amended or reenacted unless expressly provided to the contrary.

Furthermore, the chapter, article, and section headings contained in this charter shall not be deemed to govern, limit, or modify or in any manner affect the scope, meaning, or intent of the provisions of any chapter, article, or section of this charter.

(b) The city council may, by ordinance or resolution, adopt rules and bylaws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent councilmembers. Such rules may include punishment for contemptuous behavior conducted in the presence of the city council.

SECTION 2.16.

Submission of ordinances to the city clerk.

(a) Every ordinance, resolution, and other action adopted by the city council shall be presented to the city clerk within 15 days of its adoption or approval. The city clerk shall record upon the ordinance the date of its delivery from the city council.

(b) An ordinance or resolution that has been passed by the city council shall become effective on the date the ordinance is passed by the city council or on such other date as may be specified in the ordinance.

ARTICLE III

EXECUTIVE BRANCH

SECTION 3.01.

Powers and duties of the mayor.

(a) The mayor shall

- (1) Preside over all meetings of the city council

- (2) Set the agenda for meetings of the city council after receiving input from members of the city council, the city manager, and the public; provided, however, that an additional item shall be added to the agenda upon the written request of any member of the city council, and name of the mayor or councilmember placing an item on the agenda shall be noted on the agenda;
 - (3) Serve as the ceremonial head of the city and as its official representative to federal, state, and local government bodies and officials;
 - (4) Sign all orders, checks, and warrants for payment of money within a level of authorization as established by the city council;
 - (5) Execute all contracts, deeds, and other obligations of the city within a level of authorization as established by the city council;
 - (6) Vote in all matters before the city council as provided in subsection (a) of Section 2.10 of this charter;
 - (7) Make all appointments of city officers as provided by this charter, subject to confirmation by the city council;
 - (8) Serve in a part-time capacity and be compensated accordingly;
 - (9) Approve all raises or increases in compensation of city staff with the consent of the city council; and
 - (10) Perform any other duties and exercise any other powers required by state or federal law or authorized by a duly adopted ordinance that is not in conflict with this charter
- (b) The mayor shall have the authority to certify that a supplemental appropriation is possible due to unexpected revenue increases but only with approval of the city council.
- (c) The mayor shall have all of the powers specifically granted to the mayor elsewhere in this charter regardless of whether such powers are enumerated in this section.

SECTION 3.02.

City manager; appointment and qualification

The mayor shall nominate a person for the office of city manager, and the approval of the city council shall be required to make the appointment official. If the first proposed city manager is rejected by the city council, the mayor shall make a second appointment selection. If the city council rejects that second appointment selection, the city council shall offer a candidate for city manager and, by a majority vote, send the appointee to the mayor for approval. If the mayor vetoes or does not approve, a second vote of a two-thirds' majority of the council shall be needed to approve the appointee for the position. The city council may offer as many candidates as needed until the required approval is achieved. The city manager shall be appointed without regard to

political beliefs and solely on the basis of his or her education and experience in the accepted competencies and practices of local government management.

SECTION 3.04.

City manager; powers and duties enumerated.

The city manager shall have the power, and it shall be his or her duty, to:

- (1) See that all laws and ordinances are enforced;
- (2) Propose a budget for city operations from a zero base with input from the actual expenditures of the city from the prior year;
- (3) Appoint and employ all necessary employees of the city, provided that the power of this appointment shall not include officers and employees who, by this charter, are appointed or elected by the mayor and the city council or departments not under the jurisdiction of the city manager;
- (4) Remove employees appointed and employed under paragraph (3) of this section, without the consent of the city council and without assigning any reason therefor;
- (5) Exercise supervision and control of all departments and all divisions created in this charter or that may hereafter be created by the city council except as otherwise provided in this charter or specified by the city council;
- (6) Attend all meetings of the city council, without a right to vote, but with a right to take part in the discussions as seen fit by the chairperson; provided, however, that regardless of the decision of the meeting chairperson, the city manager may take part in any discussion and report on any matter requested and approved by the city council at such meeting. The city manager shall be entitled to notice of all special meetings;
- (7) Recommend to the city council for adoption such measures as the city manager may deem necessary or expedient;
- (8) See that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed and, upon knowledge of any violation thereof, to call the same to the attention of the city attorney, whose duty it shall be forthwith to take such steps as are necessary to protect and enforce the same;
- (9) Make and execute all lawful contracts on behalf of the city as to matters within the city manager's level of authorization as established by the city council to the extent that such contracts are funded in the city's budget, except such as may be otherwise provided by law; provided, however, that no contract purchase or obligation requiring a budget amendment shall be valid and binding until after approval of the city council;

- (10) Sign all orders, checks, and warrants for payment of money within the city manager's level of authorization as established by the city council to the extent that such contracts are funded in the city's budget, except such as may be otherwise provided by law; provided, however, that no such order, check, or warrant requiring a budget amendment shall be valid and binding until after approval of the city council;
- (11) Act as budget officer to prepare and submit to the city council, after review and comment by the mayor, prior to the beginning of each fiscal year, a budget of proposed expenditures for the ensuing year, showing in as much detail as practicable the amounts allotted to each department of the city government and the reasons for such estimated expenditures;
- (12) Keep the city council at all times fully advised as to the financial condition and needs of the city;
- (13) Make a full written report to the city council on the fifteenth of each month showing the operations and expenditures of each department of the city government for the preceding month, and a synopsis of such reports shall be published by the city clerk;
- (14) Fix all salaries and compensation of city employees in accordance with the city budget and the city pay and classification plan;
- (15) Shall have the authority to transfer appropriations within a department, fund, service, strategy, or organizational unit, but only with the approval of the city council; and
- (16) Perform such other duties as may be prescribed by this charter or required by ordinance or resolution of the city council.

SECTION 3.05.

City council interference with administration

Except for the purpose of inquiries and investigations under Section 2.08 of this charter, the city council or its members shall deal with city officers and employees who are subject to the direction or supervision of the city manager solely through the city manager or a designated agent, and neither the city council nor its members shall give orders to any such officer or employee, either publicly or privately.

SECTION 3.06.

City manager; removal

The mayor and city council may remove the city manager from office for any reason in accordance with the following procedures:

- (1) The city council shall adopt by affirmative vote of a majority of all its members a preliminary resolution removing the city manager and may suspend the city manager

from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the city manager

(2) Within five days after a copy of the resolution is delivered to the city manager, he or she may file with the city council a written request for a public hearing. This hearing shall be held at a city council meeting not earlier than 15 days nor later than 30 days after the request is filed. The city manager may file with the city council a written reply not later than five days before the hearing; and

(3) The city council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of four of its members at any time after five days from the date when a copy of preliminary resolution was delivered to the city manager, if he or she has not requested a public hearing, or at any time after the public hearing if he or she has requested one

- (b) The city manager shall continue to receive his or her salary until the effective date of a final resolution of his or her removal. The action of the city council in suspending or removing the city manager shall not be subject to review by any court or agency.
- (c) If the city manager is suspended in accordance with subsection (a) of this section or becomes disabled and is unable to carry out the duties of the office or if the city manager dies, the acting city manager shall perform the duties of the city manager until the city manager's disability is removed or until the city manager is replaced. Removal of the city manager because of disability shall be carried out in accordance with the provisions of subsection (a) of this section.

SECTION 3.07.

Acting city manager.

- (a) The mayor with the approval of the city council may appoint any person to exercise all powers, duties, and functions of the city manager during the city manager's suspension under subsection (a) of Section 3.06 of this charter, temporary absence from the city, or during the city manager's disability.
- (b) In the event of a vacancy in the office of city manager, the mayor may designate with the approval of the city council a person as acting city manager, who shall exercise all powers, duties, and functions of the city manager until a city manager is appointed.

SECTION 3.08.

City attorney.

The city council shall appoint the city attorney or attorneys, together with such assistant city attorneys as may be deemed appropriate, and shall provide for the payment of such attorney or attorneys for services rendered to the city. The rates or salary paid to any city attorney or assistant city attorney shall be approved in advance by the city council. The city attorney or attorneys shall be responsible for representing and defending the city in all litigation in which the city is a party; may be the prosecuting officer in the municipal court if the city elects to create a municipal court; shall attend the meetings of the city council as directed; shall advise the city council, mayor, other officers, and employees of the city concerning legal aspects of the city's affairs; and shall perform such other duties as may be required by virtue of his or her position as city attorney. Except as provided in this charter, the city attorney or attorneys shall review and sign all contracts and documents that bind the city but shall not have the power to bind the city. In a conflict between the mayor and the city council, the city attorney shall engage a separate outside firm to represent the interests of the city council and mayor, respectively. Notwithstanding any law or ordinance to the contrary, the city attorney shall not represent the interest of the city council or the mayor against the other. Unless the litigation allegations specify individual wrongdoing by an individual member of the city council or the mayor, the outside firm shall be able to represent the entity rather than the individual and separate attorneys for the individuals of the city council shall not be necessary.

SECTION 3.09.

City clerk.

The city council shall appoint a city clerk to keep a journal of the proceedings of the city council; to maintain in a safe place all records and documents pertaining to the affairs of the city; and to perform such duties as may be required by law or ordinance or as the mayor or city manager may direct.

SECTION 3.10.

Tax collector.

The mayor may appoint a tax collector, subject to confirmation by the city council, to collect all taxes, licenses, fees, and other moneys belonging to the city subject to the provisions of this charter and the ordinances of the city; and the tax collector shall diligently comply with and enforce all general laws of Georgia relating to the collection, sale, or foreclosure of taxes by municipalities.

SECTION 3.11.

City accountant.

The city council shall appoint a city accountant to perform the duties of an accountant.

SECTION 3.12.

City internal auditor.

The city council shall appoint an internal auditor to audit the financial records and expenditures of city funds and to report the results of such audits in writing to the city council at times and intervals set by the city council but no less than quarterly. Such audit reports shall, at a minimum, identify all city expenditures and other financial matters that the internal auditor either determines are not in compliance with or cannot conclusively be determined to be in compliance with: (1) the provisions of this charter; (2) the applicable city budget; and (3) applicable ordinances, resolutions, or other actions duly adopted or approved under the provisions of this charter.

SECTION 3.13.

Consolidation of functions.

The city manager, with the approval of the city council, may consolidate any two or more of the positions of city clerk, city tax collector, and city accountant, or any other positions, or may assign the functions of any one or more of such positions to the holder or holders of any other positions. The city manager may also, with the approval of the city council, perform all or any part of the functions of any of the positions or offices in lieu of the appointment of other persons to perform the same.

The city manager shall be responsible for the preparation of a position classification and a pay plan which shall be submitted to the city council for approval. Such plan may apply to all employees of the City of Tucker and any of its agencies and offices. When a pay plan has been adopted by the city council, neither the city council nor the city manager shall increase or decrease the salaries of individual employees except in conformity with such pay plan or pursuant to an amendment of such pay plan duly adopted by the city council. Except as otherwise provided in this charter, all employees of the city shall be subject to removal or discharge, with or without cause, at any time.

ARTICLE IV

MUNICIPAL COURT

SECTION 4.01.

Creation.

The city council may establish by ordinance a court to be known as the Municipal Court of the City of Tucker which shall have jurisdiction and authority to try offenses against the laws and ordinances of such city and to punish for a violation of such laws or ordinances. Such court shall have the power to enforce its judgments by the imposition of such penalties as may be provided by law, including ordinances of the city; to punish witnesses for nonattendance and to punish also any person who may counsel or advise, aid, encourage, or persuade another whose testimony is desired or material in any proceeding before such court to go or move beyond the reach of the process of the court; to try all offenses within the territorial limits of the city constituting traffic cases which, under the laws of Georgia, are placed within the jurisdiction of municipal courts to the extent of, and in accordance with, the provisions of such laws and all laws subsequently enacted amendatory thereof. Such court shall be presided over by a judge of such court pursuant to Chapters 32 through 45 and 60 through 76 of Title 36 of the O.C.G.A. The provisions of this article shall apply only upon the creation of the municipal court.

SECTION 4.02.

Judges.

(a) There shall be at least one judge of the municipal court and that judge shall be designated as the chief judge with the authority to direct the court calendar, recommend associate judges to the city council, sit in presiding matters, discipline the city solicitors, and enforce all the powers of a powers of a judicial officer pursuant to Chapter 1 of Title 15 of the O.C.G.A.

(b) No person shall be qualified or eligible to serve as a judge unless he or she shall have attained the age of 28 years and shall have been a member of the State Bar of Georgia for a minimum of seven years. The judge or judges shall be nominated by the mayor subject to approval by the city council. The compensation and number of the judges shall be fixed by the city council.

(c) Before entering on duties of his or her office, a judge shall take an oath before an officer duly authorized to administer oaths in this state declaring that he or she will truly, honestly, and faithfully discharge the duties of his or her office to the best of his or her ability without fear, favor, or partiality. The oath shall be entered upon the minutes of the city council.

(d) A judge shall serve for a term of four years but may be removed from the position by a two-thirds' vote of the entire membership of the city council or shall be removed upon action by the State Judicial Qualifications Commission for:

- (1) Willful misconduct in office;
- (2) Willful and persistent failure to perform duties;
- (3) Habitual intemperance;
- (4) Conduct prejudicial to the administration of justice which brings the judicial office into

disrepute; or

(5) Disability seriously interfering with the performance of duties, which is, or is likely to become, of a permanent character.

SECTION 4.03.

Convening.

The municipal court shall be convened at such times as designated by ordinance or at such times as deemed necessary by the judge to keep current the dockets thereof.

SECTION 4.04.

Jurisdiction; powers.

(a) The municipal court shall try and punish for crimes against the City of Tucker and for violations of its ordinances. The municipal court may fix punishment for offenses within its jurisdiction to the fullest extent allowed by state law.

(b) The municipal court shall have authority to recommend to the city council for approval a schedule of fees to defray the cost of operation.

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

(d) The municipal court shall have the authority to bind prisoners over to the appropriate court when it appears, by probable cause, that a state law has been violated.

(e) The municipal court shall have the authority to administer oaths and to perform all other acts necessary or proper to the conduct of such court.

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

(g) The municipal court is specifically vested with all of the judicial jurisdiction and judicial powers throughout the entire area of the City of Tucker granted by state laws generally to municipal courts, and particularly by such laws as authorize the abatement of nuisances.

SECTION 4.05.

Certiorari.

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

SECTION 4.06.

Rules for court.

With the approval of the city council, the judge or judges shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court.

SECTION 5.02.

Preparation of budgets.

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

SECTION 5.03.

Submission of operating budget to city council.

(a) On or before a date fixed by the city council, but not later than the first day of the ninth month of the fiscal year currently ending, the city manager shall, after input, review, and comment by the mayor, submit to the city council a proposed operating budget and capital budget for the ensuing fiscal year. The budget shall be accompanied by a message from the mayor and city manager containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget, and such other comments and information as they may deem pertinent. The operating budget, the capital budget, the budget message, and all supporting documents shall be filed in the

office of the city manager and shall be open to public inspection.

(b) Prior to passage of the budget, the city council shall hold a special public hearing at which the budget shall be presented and public comment on the budget shall be solicited. The date, time, and place of the special public hearing shall be announced no less than 30 days prior to the scheduled date for such hearing.

(c) All unencumbered balances of appropriations in the current operating budget at the end of the fiscal year shall lapse into the unappropriated surplus or reserves of the fund or funds from which such appropriations were made. When a supplemental appropriation is certified by the city manager to exist, these appropriations may be spent during the current fiscal year following passage of a supplemental appropriation ordinance.

SECTION 5.04.

Action by city council on budget.

(a) The city council may amend the operating budget or capital budget proposed by the city manager in accordance with subsection (a) of Section 5.03 of this charter, except that the budget, as finally amended and adopted, shall provide for all expenditures required by law or by other provisions of this charter and for all debt service requirements for the ensuing fiscal year; and the total appropriations from any fund shall not exceed the estimated fund balance, reserves, and revenues constituting the fund availability of such fund.

(b) The city council shall adopt a budget on or before the first day of the eleventh month of the fiscal year currently ending. If the city council fails to adopt the budget by the prescribed deadline, the operating budget and capital budget proposed by the mayor and city manager shall be adopted without further action by the city council.

SECTION 5.05.

Procurement and property management.

No contract with the city shall be binding on the city unless it is in writing. The city council may adopt procedures for the authorization of certain contracts without the city attorney's signature or city council approval. Absent the foregoing, no contract with the city shall be binding on the city unless:

- (1) It is drawn or submitted and reviewed by the city attorney and, as a matter of course, is signed by the city attorney to indicate such drafting or review; and
- (2) It is made or authorized by the city council and such approval is entered in the city council journal of proceedings.

SECTION 5.06.

Purchasing.

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

SECTION 5.07.

External audits.

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

(b) As a minimum, all audits and budgets of the city shall satisfy the requirements of Chapter 81 of Title 36 of the O.C.G.A., relating to local government audits and budgets.

(c) The city council shall appoint the external auditor.

SECTION 5.08.

Homestead exemption; freeze.

(a) As used in this section, the term:

(1) "Ad valorem taxes for municipal purposes" means all municipal ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Tucker, including, but not limited to, ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Base year" means the taxable year immediately preceding the taxable year in which the exemption under this section is first granted to the most recent owner of such homestead.

(3) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended, with the additional qualification that it shall include not more than five contiguous acres of homestead property.

(b) Each resident of the City of Tucker is granted an exemption on that person's homestead from City of Tucker ad valorem taxes for municipal purposes in an amount equal to the amount by which the current year assessed value of that homestead exceeds the base year assessed value of that homestead. This exemption shall not apply to taxes assessed on improvements to the homestead or additional land that is added to the homestead after January 1 of the base year. If any real property is added to or removed from the homestead, the base year assessed value shall be adjusted to reflect such addition or removal, and the exemption shall be recalculated accordingly. The value of that property in excess of such exempted amount shall remain subject to taxation.

(c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Tucker, or the designee thereof, giving such information relative to receiving such exemption as will enable the governing authority of the City of Tucker, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Tucker, or the designee thereof, shall provide application forms for this purpose.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year, and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Tucker, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2017.

SECTION 5.09.

Homestead exemption; senior citizens; disabled.

(a) As used in this section, the term:

(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Tucker, including, but not limited to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

(3) "Income" means Georgia taxable net income determined pursuant to Chapter 7 of Title 48 of the O.C.G.A., as amended, for state income tax purposes, except income shall not include income received as retirement, survivor, or disability benefits under the federal Social Security Act or under any other public or private retirement, disability, or pension system, Social Security Act. Income from such sources in excess of such maximum amount shall be included as income for the purposes of this charter.

- (4) "Senior citizen" means a person who is 65 years of age or over on or before January 1 of the year in which application for the exemption under subsection (b) of this section is made.
- (b) Each resident of the City of Tucker who is disabled or is a senior citizen is granted an exemption on that person's homestead from City of Tucker ad valorem taxes for municipal purposes in the amount of \$14,000.00 of the assessed value of that homestead. The exemption granted by this subsection shall only be granted if that person's income, together with the income of the spouse who also occupies and resides at such homestead, does not exceed \$15,000.00 for the immediately preceding year. The value of that property in excess of such exempted amount shall remain subject to taxation.
- (c)(1) In order to qualify for the exemption provided for in subsection (b) of this section due to being disabled, the person claiming such exemption shall be required to obtain a certificate from not more than three physicians licensed to practice medicine under Chapter 34 of Title 43 of the O.C.G.A., as amended, certifying that, in the opinion of such physician or physicians, such person is mentally or physically incapacitated to the extent that such person is unable to be gainfully employed and that such incapacity is likely to be permanent. Such certificate or certificates shall constitute part of and be submitted with the application provided for in paragraph (2) of this subsection.
- (2) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Tucker, or the designee thereof, giving the person's age, income, and such additional information relative to receiving such exemption as will enable the governing authority of the City of Tucker, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Tucker, or the designee thereof, shall provide application forms for this purpose
- (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application, as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Tucker, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.
- (e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2017.

SECTION 5.10.

Homestead exemption; general.

(a) As used in this section, the term:

(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Tucker, including, but not limited to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

(b) Each resident of the City of Tucker is granted an exemption on that person's homestead from City of Tucker ad valorem taxes for municipal purposes in the amount of \$10,000.00 of the assessed value of that homestead. The value of that property in excess of such exempted amount shall remain subject to taxation.

(c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Tucker, or the designee thereof, giving such information relative to receiving such exemption as will enable the governing authority of the City of Tucker, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Tucker, or the designee thereof, shall provide application forms for this purpose.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application, as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Tucker, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2017.

SECTION 5.11.

Homestead exemption; surviving spouses.

(a) As used in this section, the term:

(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Tucker, including, but not limited to, ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

(3) "Unremarried surviving spouse" of a member of the armed forces includes the unmarried widow or widower of a member of the armed forces who is receiving spousal benefits from the United States Department of Veterans Affairs.

(b) Any person who is a resident of the City of Tucker and who is an unremarried surviving spouse of a member of the armed forces of the United States, which member has been killed in or has died as a result of any war or armed conflict in which the armed forces of the United States engaged, whether under United States command or otherwise, shall be granted a homestead exemption from all City of Tucker ad valorem taxation for municipal purposes in the amount of the greater of \$32,500.00 or the maximum amount which may be granted to a disabled veteran under Section 2102 of Title 38 of the United States Code, as amended. As of January 1, 2013, the maximum amount which may be granted to a disabled veteran under Section 2102 of Title 38 of the United States Code, as amended, is \$50,000.00. The exemption shall be on the homestead which the unremarried surviving spouse owns and actually occupies as a residence and homestead. In the event such surviving spouse remarries, such person shall cease to be qualified to continue the exemption under this Act effective December 31 of the taxable year in which such person remarries. The value of all property in excess of such exemption granted to such unremarried surviving spouse shall remain subject to taxation.

(c) In order to qualify for the exemption provided for in this Act, the unremarried surviving spouse shall furnish to the governing authority of the City of Tucker, or the designee thereof, documents from the Secretary of Defense evidencing that such unremarried surviving spouse receives spousal benefits as a result of the death of such person's spouse who as a member of the armed forces of the United States was killed or died as a result of a war or armed conflict while on active duty or while performing authorized travel to or from active duty during such war or armed conflict in which the armed forces of the United States engaged, whether under United States command or otherwise, pursuant to the Survivor Benefit Plan under Subchapter II of Chapter 73 of Title 10 of the United States Code or pursuant to any preceding or subsequent federal law which provides survivor benefits for spouses of members of the armed forces who were killed or who died as a result of any war or armed conflict.

(d) An unremarried surviving spouse filing for the exemption under this section shall be required to file with the governing authority of the City of Tucker, or the designee thereof, information relative to

marital status and such other information which the governing authority of the City of Tucker, or the designee thereof, deems necessary to determine eligibility for the exemption. Each unmarried surviving spouse shall file for the exemption only once with the governing authority of the City of Tucker or the designee thereof. Once filed, the exemption shall automatically be renewed from year to year, except that the governing authority of the City of Tucker, or the designee thereof, may require annually that the holder of an exemption substantiate his or her continuing eligibility for the exemption. It shall be the duty of any person granted the homestead exemption under this section to notify the governing authority of the City of Tucker, or the designee thereof, in the event that person for any reason becomes ineligible for such exemption.

(e) The exemption granted by this section shall be in lieu of and not in addition to any other exemption from ad valorem taxation for municipal purposes which is equal to or lower in amount than such exemption granted by this section. If the amount of any other exemption from ad valorem taxation for municipal purposes applicable to any resident qualifying under this section is greater than or is increased to an amount greater than the amount of the applicable exemption granted by this section, such other exemption shall apply and shall be in lieu of and not in addition to the exemption granted by this section.

(f) The exemptions granted by this section shall apply to all tax years beginning on or after January 1, 2017

ARTICLE VI

GENERAL PROVISIONS

SECTION 6.01.

DeKalb county special services tax district.

For the taxable years beginning on or after January 1, 2016, the adjusted ad valorem tax millage rate and amount for service charges or fees for district services for the Tucker special services tax district shall be 0 percent. This section is enacted pursuant to the authority granted to the General Assembly under Section 1 of that local constitutional amendment providing that certain municipalities in DeKalb County shall constitute special services tax districts, Resolution Act No. 168; House Resolution No. 715-1916; Ga. L. 1978, p. 2468, to control the subject matter of such local constitutional amendment. Municipal services provided by DeKalb County for the City of Tucker shall be established through intergovernmental agreements or established as otherwise authorized by statute.

SECTION 6.02.

Referendum and initial election.

(a) The election superintendent of DeKalb County shall call a special election for the purpose of submitting this Act to the qualified voters of the proposed City of Tucker for approval or rejection. The superintendent shall set the date of such election for the Tuesday after the first Monday in November, 2015. The superintendent shall issue the call for such election at least 60 days prior to the date thereof. The superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of DeKalb County. The ballot shall have written or printed thereon the words:

(b)

"() YES Shall the Act incorporating the City of Tucker in DeKalb County according
() NO to the charter contained in the Act and the homestead exemptions described
 in the Act be approved?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, it shall become of full force and effect as provided in this charter, otherwise it shall be void and of no force and effect. The initial expense of such election shall be borne by DeKalb County. Within two years after the elections if the incorporation is approved, the City of Tucker shall reimburse DeKalb County for the actual cost of printing and personnel services for such election and for the initial election of the mayor and councilmembers pursuant to Section 2.02 of this charter. It shall be the duty of the superintendent to hold and conduct such election. It shall be his or her further duty to certify the result thereof to the Secretary of State.

(b) For the purposes of the referendum election provided for in subsection (a) of this section and for the purposes of the special election of the City of Tucker to be held on the date of and in conjunction with the 2016 presidential preference primary, the qualified electors of the City of Tucker shall be those qualified electors of DeKalb County residing within the corporate limits of the City of Tucker as described by Appendix A of this charter. At subsequent municipal elections, the qualified electors of the City of Tucker shall be determined pursuant to the authority of Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

(c) Only for the purposes of holding and conducting the referendum election provided for by subsection (a) of this section and holding and conducting the special election of the City of Tucker to be held on the date of and in conjunction with the 2016 presidential preference primary, the election superintendent of DeKalb County is vested with the powers and duties of the election superintendent of the City of Tucker and the powers and duties of the governing authority of the City of Tucker.

SECTION 6.03.

Effective dates and transition.

(a) The initial mayor and councilmembers shall take the oath of office the next business day after certification of the election of such officers and by action of any four members of the governing authority may, prior to the first day of the second month immediately following the 2016 presidential preference primary, meet and take actions binding on the city.

(b) A period of time will be needed for an orderly transition of various government functions from DeKalb County to the City of Tucker. Accordingly, there shall be a two-year transition period as allowed by law beginning at 12:01 A.M. on the first day of the second month immediately following the 2016 presidential preference primary.

(c) During such transition period, DeKalb County shall continue to provide within the territorial limits of the city all government services and functions which DeKalb County provided in 2015 and at the same actual direct cost and level of service, except to the extent otherwise provided in this section; provided, however, that upon at least 30 days' prior written notice to the governing authority of DeKalb County by the governing authority of the City of Tucker, responsibility for any such service or function shall be transferred to the City of Tucker. The governing authority of the City of Tucker shall determine the date of commencement of collection of taxes, fees, assessments, fines and forfeitures, and other moneys within the territorial limits of the city and the date upon which the City of Tucker is considered removed from the special services tax district.

(d) During the transition period, the governing authority of the City of Tucker may generally exercise any power granted by this charter or general law, except to the extent that a power is specifically and integrally related to the provision of a governmental service, function, or responsibility not yet provided or carried out by the city.

(e) During the transition period, all ordinances of DeKalb County shall remain applicable within the territorial limits of the city unless otherwise amended, repealed, or replaced by the City of Tucker. Any transfer of jurisdiction to the City of Tucker during or at the end of the transition period shall not in and of itself abate any judicial proceeding pending in DeKalb County or the pending prosecution of any violation of any ordinance of DeKalb County.

(f) During the transition period, the governing authority of the City of Tucker may at any time, without the necessity of any agreement by DeKalb County, commence to exercise its planning and zoning powers; provided, however, that the city shall give the county notice of the date on which the city will assume the exercise of such powers. Upon the governing authority of the City of Tucker commencing to exercise its planning and zoning powers, the Municipal Court of the City of Tucker shall immediately have jurisdiction to enforce the planning and zoning ordinances of the city. The provisions of this subsection shall control

over any conflicting provisions of any other subsection of this section.

(g) Effective upon the termination of the transition period, subsections (b) through (f) of this section shall cease to apply except for the last sentence of subsection (e) which shall remain effective. Effective upon the termination of the transition period, the City of Tucker shall be a full functioning municipal corporation and subject to all general laws of this state.

SECTION 6.04.

Directory nature of dates.

It is the intention of the General Assembly that this Act be construed as directory rather than mandatory with respect to any date prescribed in this Act. If it is necessary to delay any action called for in this Act for providential cause or any other reason, it is the intention of the General Assembly that the action be delayed rather than abandoned. Any delay in performing any action under this Act, whether for cause or otherwise, shall not operate to frustrate the overall intent of this Act. Without limiting the generality of the foregoing, it is specifically provided that, if it is not possible to hold the referendum election provided for in Section 6.02 of this Act on the date specified in that section, then such referendum shall be held as soon thereafter as is reasonably practicable. If the referendum election provided for in Section 6.02 of this Act is conducted on or before the Tuesday after the first Monday in November, 2015, the special election for the initial members of the governing authority shall be conducted on the date specified in Section 2.02 of this Act. If the referendum election provided for under Section 6.02 of this Act is conducted after the Tuesday after the first Monday in November, 2015, then the special election for the initial members of the governing authority shall be held as soon thereafter as is reasonably practicable, and the commencement of the initial terms of office shall be delayed accordingly. If the first election provided for in Section 2.02 of this Act occurs after the date of the 2016 presidential preference primary, the city council shall be authorized to delay the dates otherwise specified in Section 6.03 of this Act.

SECTION 6.05.

Charter commission.

No later than three years after the inception of the City of Tucker, the mayor and the city council shall call for a charter commission to review the city's experience and recommend to the General Assembly any changes to the charter. Members of the charter commission shall be appointed as follows: one member by the mayor, one member by the city council, and one member by each member of the Georgia House of Representatives and Georgia Senate whose district lies wholly or partially within the corporate boundaries of the City of Tucker. All members of the charter commission shall reside in the City of Tucker. The commission shall complete the recommendations within the time frame required by the city council.

SECTION 6.06.

Effective date.

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

SECTION 6.07.

Repealer.

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