

House Bill 1041

By: Representative Morris of the 156<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

1 To provide for a new charter for the City of Baxley; to provide for incorporation, corporate  
 2 boundaries, municipal powers, and exercise of powers; to provide for a government structure  
 3 of such city including creation, number, and election of the mayor and council; to provide  
 4 for council members' terms and qualifications for office; to provide procedures for elections,  
 5 vacancies in office, filling of vacancies, and nonpartisan elections; to provide for election by  
 6 majority; to provide for compensation and expenses; to provide rules regarding conflicts of  
 7 interest and the holding of other offices; to provide for inquiries and investigations; to  
 8 provide general powers and authority of the mayor and council; to provide for eminent  
 9 domain; to provide for organizational meetings; to provide for regular and special meetings;  
 10 to provide for rules of procedure; to provide for quorum and voting; to provide for ordinance  
 11 form and procedures; to provide for action requiring an ordinance; to provide for  
 12 emergencies; to provide for codes of technical regulation; to provide for ordinance book,  
 13 codification of ordinances, and availability of laws; to provide for a city manager and  
 14 appointment and qualifications; to provide for an acting city manager; to provide for the  
 15 powers and duties of the city manager; to prohibit council interference with administration;  
 16 to provide for authority of the city manager in public emergencies; to provide compensation  
 17 for the city manager; to provide for the election of the mayor; to provide for a mayor pro  
 18 tempore; to provide for the powers and duties of the mayor and council; to define the position  
 19 of mayor pro tempore; to provide for the administrative affairs of the city; to create boards,  
 20 commissions, and authorities of the city; to provide for a city clerk; to provide for a city  
 21 attorney; to provide for rules and regulations through an employee handbook; to provide for  
 22 personnel policies; to provide for a judicial branch including a municipal court and judge(s)  
 23 of that court; to provide for the convening of court; to establish certiorari; to provide for rules  
 24 of the municipal court; to provide for the finance of the city; to provide for property taxes;  
 25 to provide for a millage rate; to provide for occupation taxes and regulatory fees; to provide  
 26 for licenses and permits; to provide for franchises; to provide for service fees; to provide for  
 27 roads; to provide for other taxes; to provide for the collection of delinquent taxes; to provide  
 28 for borrowing; to provide for revenue bonds; to provide for loans; to provide for accounting

29 and budgeting; to provide for a budget ordinance; to provide for an operating budget; to  
 30 provide for adoption of the budget; to provide for the levy of taxes; to provide for changes  
 31 in the budget; to provide for capital improvements; to provide for audits; to provide for  
 32 procurement and property management; to provide for purchasing; to provide for sale of  
 33 property; to provide for deposits; to provide for bonds for officials; to provide for the validity  
 34 of existing ordinances, resolutions, rules, and regulations of the city; to provide for charter  
 35 language on other general matters; to provide for definitions and construction; to provide for  
 36 specific repealer; to provide an effective date; to provide a general repealer; and for other  
 37 purposes.

38 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

39 ARTICLE I.  
 40 CREATION, INCORPORATION, POWERS  
 41 SECTION 1.10.  
 42 Incorporation.

43 The City of Baxley in Appling County, Georgia, is reincorporated by the enactment of this  
 44 charter and is constituted and declared a body politic and corporate under the name of "City  
 45 of Baxley." References in this charter to "the city" or "this city" refer to the City of Baxley,  
 46 Georgia. This city shall have perpetual existence.

47 SECTION 1.11.  
 48 Corporate boundaries.

49 (a) The boundaries of this city shall be those existing on the effective date of the adoption  
 50 of this charter including all former annexations by legislative Act and by ordinance, with  
 51 such alterations as may be made from time to time by local law or in any other manner  
 52 provided by general state law. The boundaries of this city at all times shall be shown on a  
 53 map, a written description, or any combination thereof, to be retained permanently in the  
 54 office of the city clerk, to be designated as the "Official Map (or Description) of the  
 55 Corporate Limits of the City of Baxley, Georgia." Photographic, typed, or other copies of  
 56 such map or description, certified by the city clerk, shall be admitted as evidence in all courts  
 57 and shall have the same force and effect as the original map or description.

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

**SECTION 1.12.**

## Municipal powers.

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

(b) The powers of the city shall be construed liberally in favor of the city. The specific mention or failure to mention particular powers shall not be construed as limiting in any way the powers of the city. Such powers shall include, but are not limited to, the following, and also include the power to provide punishment for violation of ordinances enacted under this subsection:

(1) Air and water pollution. To regulate the emission of smoke or other exhaust which pollutes the air and to prevent the pollution of natural streams which flow within the corporate limits of the city;

(2) Animal regulations. To regulate and license or to prohibit the keeping or running at large of animals and fowl and to provide for their impoundment if in violation of any ordinance or lawful order, and to provide for the disposition by sale, gift, or humane destruction of animals and fowl when not redeemed as provided by ordinance;

(3) 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 this city. Such appropriations and expenditures shall not exceed the annual income and other money of the city after paying interest on bonds and providing a sinking fund for the final payment on the principal of such bonds;

(4) Building regulations. To regulate and to license the erection and construction of buildings and all other structures as provided by law and this charter, and to regulate all housing and building trades except as prohibited by general law;

(5) Business regulation and taxation. To regulate, license, levy, and provide for the collection of regulatory fees, occupation taxes, and license fees and taxes on privileges, occupations, trades, and professions as provided by this charter or by general state law;

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

- 96 (7) Contracts. To enter into contracts and agreements with other governments and/or  
97 entities and with private persons, firms, and corporations;
- 98 (8) Emergencies. To establish procedures for determining and proclaiming that an  
99 emergency situation exists inside or outside the city, and to make and carry out all  
100 reasonable provisions deemed necessary to deal with or meet such an emergency for the  
101 protection, safety, health, or well-being of the inhabitants of the city;
- 102 (9) Fire regulations. To fix and establish fire limits and from time to time extend,  
103 enlarge, or restrict such limits; to prescribe fire safety regulations, not inconsistent with  
104 general law, relating to both fire prevention and detection and to fire fighting; and to  
105 prescribe penalties and punishment for violations thereof;
- 106 (10) Garbage collection and disposal. To provide for the collection and disposal of  
107 garbage, rubbish, and refuse and to regulate the collection and disposal of garbage,  
108 rubbish, and refuse by others; to levy, fix, assess, and collect a garbage, rubbish, refuse  
109 collection and disposal, and other sanitary service charge, tax, or fee for such services as  
110 may be necessary in the operation of the city from all individuals, firms, and corporations  
111 residing in or doing business within the city and benefiting from such services; to enforce  
112 the payment of such charges, taxes, or fees; and to provide for the manner and method  
113 of collecting such service charges, taxes, or fees;
- 114 (11) General health, safety, and welfare. To define, regulate, or prohibit any act,  
115 practice, conduct, or use of property which is detrimental to the health, sanitation,  
116 cleanliness, welfare, or safety of the inhabitants of the city and to provide for the  
117 enforcement of such standards;
- 118 (12) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for  
119 any purpose related to the powers and duties of the city and the general welfare of its  
120 inhabitants on such terms and conditions as the donor or grantor may impose;
- 121 (13) Health and sanitation. To prescribe standards of health and sanitation within the  
122 city and to provide for the enforcement of such standards;
- 123 (14) Jail sentences. To provide that persons given jail sentences in the municipal court  
124 may work out such sentences in any public works or on the streets, roads, drains, and  
125 other public property in the city; to provide for the commitment of such persons to any  
126 jail; to provide for the use of pretrial diversion and any alternative sentencing allowed by  
127 law; and to provide for the commitment of such persons to any county correctional  
128 institutions or county jail or county detention center by agreement with the appropriate  
129 county officials;
- 130 (15) Motor vehicles. To regulate the operation of motor vehicles and exercise control  
131 over all traffic, including parking upon or across the streets, roads, alleys, and walkways

132 of the city in accordance with general state law and any duly authorized ordinance of the  
133 city;

134 (16) Municipal agencies and delegation of power. To create, alter, or abolish  
135 departments, boards, offices, commissions, and other agencies of the city and to confer  
136 upon such agencies the necessary and appropriate authority for carrying out all the  
137 powers conferred upon or delegated to them, including, but not limited to, a municipal  
138 planning board and board of adjustment;

139 (17) Municipal debts. To appropriate and borrow money for the payment of debts of the  
140 city and to issue bonds for the purpose of raising revenue to carry out any project,  
141 program, or venture authorized by this charter or the laws of the State of Georgia. The  
142 mayor and council shall set aside annually a sum sufficient as a sinking fund to retire any  
143 bonded indebtedness of the city as it becomes due;

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

147 (19) Municipal property protection. To provide for the preservation and protection of  
148 property and equipment of the city and the administration and use of such property and  
149 equipment by the public;

150 (20) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, or otherwise  
151 dispose of public utilities, including, but not limited to, a system of waterworks, sewers  
152 and drains, waste-water and sewage treatment and disposal, gas works, electric plants,  
153 transportation facilities, public airports, telecommunications systems, and any other  
154 public utility; to fix the taxes, charges, rates, fares, fees, assessments, regulations, and  
155 penalties therefor; to provide for the withdrawal of service for failure to pay the same; to  
156 authorize the extension of water, sewerage, electrical distribution systems, and other  
157 utility services, and all necessary appurtenances by which such utilities are distributed,  
158 inside and outside the corporate limits of the city; and to provide utility services to  
159 persons, firms, and corporations inside and outside the corporate limits of the city. The  
160 mayor and council may fix a higher rate for public utility services furnished by the city  
161 to any person, firm, or corporation residing or located outside the corporate limits of the  
162 city. All fire hydrants connected to city water mains and used by any person, firm, or  
163 corporation outside the corporate limits of the city shall be paid for at a rate to be  
164 prescribed by the mayor and council;

165 (21) Nuisances. To define a nuisance and to provide for its abatement, whether on public  
166 or private property;

167 (22) Penalties. To provide penalties for violations of any ordinances adopted pursuant  
168 to the authority of this charter and the laws of the State of Georgia. Such penalties shall

169 not exceed the maximum as provided by state law or as provided in the respective  
170 ordinance, if applicable;

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

174 (24) Fire, police protection, and code enforcement. To exercise the power of arrest  
175 through duly appointed police officers; to establish, operate, or contract for a police  
176 agency; to establish, operate, or contract for a fire-fighting agency; to establish, operate,  
177 or contract for a city marshal, if necessary, to enforce the code of ordinances of the city;

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

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

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

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

194 (29) Public utilities and services. To make contracts for public utilities and public  
195 services and to prescribe the rates, fares, regulations, and the standards and conditions of  
196 service applicable to the service to be provided by the contractor, insofar as not in conflict  
197 with valid regulations of the state Public Service Commission;

198 (30) Regulation of roadside areas. To prohibit or regulate and control the erection,  
199 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any  
200 and all other structures or obstructions upon or adjacent to the rights of way of streets and  
201 roads or within view thereof, inside or abutting the corporate limits of the city;

202 (31) Retirement. To allow, provide, and maintain a retirement plan and other employee  
203 benefit plans and programs for officers and employees of the city when deemed  
204 necessary;

205 (32) Roadways. To lay out, open, extend, widen, narrow, establish, change the grade of,  
206 abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise  
207 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and  
208 walkways within the corporate limits of the city; and to negotiate and execute leases over,  
209 through, under, or across any city property or the right of way of any street, road, alley,  
210 or walkway or portion thereof within the corporate limits of the city for bridges,  
211 passageways, or any other purpose or use between buildings on opposite sides of the  
212 street and for other bridges, overpasses, and underpasses for private use at such location,  
213 and to charge a rental therefor in such manner as may be provided by ordinance; to  
214 authorize and control the construction of bridges, overpasses, and underpasses within the  
215 corporate limits of the city; and to grant franchises and rights of way as provided in this  
216 charter or by law;

217 (33) Sewer Fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring,  
218 constructing, equipping, operating, maintaining, and extending of a waste-water/sewage  
219 disposal plant and sewerage system; to levy on those whom sewers and sewerage systems  
220 are made available a sewer service fee, charge, or tax for the availability or use of the  
221 sewers; to provide for the manner and method of collecting such service charge; and to  
222 impose and collect a sewer connection/tap fee or fees to those connected with the system;

223 (34) Special areas of public regulation. To license, tax, regulate, prohibit, or control by  
224 taxing or otherwise: junk dealers; pawnshops, including title pawn businesses;  
225 Internet/sweepstakes cafes; the sale, manufacture, or transportation of alcoholic  
226 beverages and/or intoxicating liquors; the use and sale of firearms; the transportation,  
227 storage, and use of combustible, explosive, and inflammable materials; the use of lighting  
228 and heating equipment; any business or situation which may be dangerous to persons or  
229 property; the conduct of peddlers and itinerant traders; theatrical performances,  
230 exhibitions, and shows of any kind; professional fortune telling; palmistry; adult  
231 entertainment, adult bookstores, and adult movie houses; massage parlors; and tattoo  
232 parlors;

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

235 (36) Taxation of property. To levy and provide for the assessment, valuation,  
236 revaluation, and collection of taxes on all property subject to taxation;

237 (37) Taxes generally. To levy and collect such other taxes as may be allowed now or in  
238 the future by law;

239 (38) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the  
240 number of such vehicles; to require the operators thereof to be licensed; to require public

241 liability insurance on such vehicles in the amounts to be prescribed by ordinance, and to  
 242 regulate the parking of such vehicles;

243 (39) Urban redevelopment. To organize and operate an urban redevelopment program;  
 244 and

245 (40) Other powers. To exercise and enjoy all other powers, functions, rights, privileges,  
 246 and immunities necessary or desirable to promote or protect the safety, health, peace,  
 247 security, good order, comfort, convenience, or general welfare of the city and its  
 248 inhabitants; to exercise all implied powers necessary to carry into execution all powers  
 249 granted in this charter as fully and completely as if such powers were fully stated in this  
 250 charter; and to exercise all powers now or in the future authorized to be exercised by  
 251 other municipal governments under other laws of the State of Georgia. No listing of  
 252 particular powers in this charter shall be held to be exclusive of others, nor restrictive of  
 253 general words and phrases granting powers, but shall be held to be in addition to such  
 254 powers unless expressly prohibited to municipalities under the Constitution or applicable  
 255 laws of the State of Georgia.

256 **SECTION 1.13.**

257 Exercise of powers.

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

262 **ARTICLE II.**

263 **GOVERNMENT STRUCTURE.**

264 **SECTION 2.10.**

265 Mayor and council creation; number; election.

266 The legislative authority of the government of this city, except as otherwise specifically  
 267 provided in this charter, shall be vested in a mayor and council to be composed of a mayor  
 268 and six council members. The mayor and council established shall in all respects be a  
 269 successor to and continuation of the governing authority under prior law. The mayor and  
 270 council shall be elected in the manner provided by general law and this charter. One council  
 271 member shall be elected from each of the six districts of the city by the voters residing in that  
 272 district. The mayor shall be elected by the qualified voters of the city at large as provided  
 273 in Section 2.36 of this charter. The mayor and council members shall exercise their powers



274 in such manner as prescribed by this charter and the Constitution and applicable general laws  
275 of the State of Georgia, or if not prescribed, in such manner as prescribed by the duly  
276 established ordinances of the City of Baxley.

277 **SECTION 2.11.**

278 City council terms and qualifications for office.

279 (a) The six council members shall serve for terms of four years and until their respective  
280 successors are elected and qualified. No person shall be eligible to serve as a council  
281 member unless he or she has been a resident of the city for at least 12 months preceding his  
282 or her election. Each council member shall be a resident of the district which he or she  
283 represents. Each council member shall continue to reside within the city in the district in  
284 which he or she represents during his or her period of service and shall be registered and  
285 qualified to vote in municipal elections of this city. No person's name shall be listed as a  
286 candidate on the ballot for election to the office of council member unless such person shall  
287 file a written notice with the city clerk, within the time required by law, that he or she desires  
288 his or her name to be placed on the ballot.

289 (b) No person shall be eligible to serve as a council member representing a district unless  
290 that person has been a resident of the district such person seeks to represent for a continuous  
291 period of at least six months immediately prior to the date of the election for council  
292 member.

293 (c) No person shall be eligible to serve as a council member who shall have been convicted  
294 of a crime involving moral turpitude, unless such person has received a full pardon and has  
295 had all rights of citizenship restored.

296 **SECTION 2.12.**

297 Elections.

298 (a) For the purpose of electing council members, the territory comprising the City of Baxley  
299 shall be subdivided into six parts or districts, to be known as District One, District Two,  
300 District Three, District Four, District Five and District Six. One council member shall be  
301 elected from each district. Each district shall consist of certain census blocks located within  
302 the City of Baxley identified in the latest United States decennial census redistricting data,  
303 in a manner consistent with state and federal law. The six districts shall in all respects be  
304 successors to and continuations of Districts One, Two, Three, Four, Five and Six as  
305 established under prior law until otherwise modified under applicable state or federal law.

306 (b) The members of the mayor and council shall be designated as: Mayor; Council member,  
307 District One; Council member, District Two; Council member, District Three; Council  
308 member, District Four; Council member, District Five; and Council member, District Six.  
309 A candidate for any position as a council member shall at the time of qualifying designate  
310 by district number the position that such candidate is seeking.

311 (c) No candidate shall be elected for the office of mayor or council member unless such  
312 candidate receives a majority of the votes cast in the election. If no candidate receives a  
313 majority of the votes cast, a run-off election shall be held between the two candidates  
314 receiving the highest number of votes. The run-off election shall be held as provided by law.

315 (d) At any election, all persons who are qualified under the Constitution and laws of Georgia  
316 to vote for members of the General Assembly of Georgia and who are bona fide residents of  
317 the city shall be eligible to qualify as voters in the election.

318 (e) All elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the  
319 O.C.G.A., the "Georgia Election Code." Except as otherwise provided by this charter, the  
320 mayor and council shall, by ordinance, prescribe such rules and regulations as it deems  
321 appropriate to fulfill any obligations and duties under the "Georgia Election Code."

322 (f) The mayor and council members who are in office on the effective date of this Act shall  
323 serve until the expiration of the term of office to which they were elected and until their  
324 successors are elected and qualified.

325 (g) Successors to the mayor and council members whose terms of office are to expire shall  
326 be elected at the regular municipal election in November immediately prior to such  
327 expiration of terms, and shall take office on the first meeting in January immediately  
328 following such election for terms of office of four years each and until their respective  
329 successors are elected and qualified.

### 330 **SECTION 2.13.**

#### 331 Vacancy; filling of vacancies.

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

336 (b) If less than 12 months remains in the unexpired term, a vacancy in the office of council  
337 member shall be filled for the remainder of the unexpired term by appointment by vote of the  
338 majority of the remaining members of the mayor and council. If such vacancy occurs 12  
339 months or more prior to the expiration of the term of that office, it shall be filled for the  
340 remainder of the unexpired term by a special election in accordance with Titles 21 and 45 of

341 the O.C.G.A. or such other laws as are or may hereafter be enacted. If a special election is  
 342 required to fill a vacancy in the office of council member for an unexpired term, the vacant  
 343 position shall be filled for the period between the occurrence of the vacancy and the  
 344 completion of the special election by appointment by vote of the majority of the remaining  
 345 members of the mayor and council.

346 (c) This provision shall also apply to a temporary vacancy created by the suspension from  
 347 office of a council member.

348 **SECTION 2.14.**

349 Nonpartisan elections.

350 Political parties shall not conduct primaries for city offices, and all names of candidates for  
 351 city offices shall be listed without party labels.

352 **SECTION 2.15.**

353 Election by majority.

354 The candidate receiving a majority of the votes cast for any city office shall be elected.

355 **SECTION 2.16.**

356 Compensation and expenses.

357 The mayor and council members shall receive compensation and expenses for their services  
 358 as provided by ordinance and in accordance with general state law.

359 **SECTION 2.17.**

360 Conflicts of interest; holding other offices.

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

363 (b) Conflict of Interest — No elected official, appointed officer, or employee of the city or  
 364 any agency or political entity to which this charter applies shall knowingly:

365 (1) Engage in any business or transaction or have a financial or other personal interest,  
 366 direct or indirect, which is incompatible with the proper discharge of his or her official  
 367 duties or which would tend to impair the independence of his or her judgment or action  
 368 in the performance of his or her official duties;

- 369 (2) Engage in or accept private employment or render services for private interests when  
370 such employment of service is incompatible with the proper discharge of his or her  
371 official duties or would tend to impair the independence of his or her judgment or action  
372 in the performance of his or her official duties;
- 373 (3) Disclose confidential information concerning the property, government, or affairs of  
374 the governmental body by which he or she is engaged without proper legal authorization  
375 or use such information to advance the financial or other private interest of himself or  
376 herself or others;
- 377 (4) Accept any valuable gift, whether in the form of service, loan, object, or promise,  
378 from any person, firm, or corporation that to his or her knowledge is interested, directly  
379 or indirectly, in any manner in business dealings with the governmental body by which  
380 he or she is engaged; provided, however, that an elected official who is a candidate for  
381 public office may accept campaign contributions and services in connection with any  
382 such campaign;
- 383 (5) Represent private interests other than his or her own in any action or proceeding  
384 against this city or against any portion of its government; or
- 385 (6) Vote or otherwise participate in the negotiation or in the making of any contract with  
386 any business or entity in which he or she has a financial interest.
- 387 (c) Disclosure — Any elected official, appointed officer, or employee who has any private  
388 financial interest, directly or indirectly, in any contract or matter pending before or within  
389 any department or other agency of the city shall disclose such private interest to the mayor  
390 and council. Any council member who has a private interest in any matter pending before  
391 the mayor and council shall disclose such private interest, and such disclosure shall be  
392 entered on the records of the mayor and council. Such mayor or council member shall  
393 disqualify himself or herself from participating in any decision or vote relating to such  
394 private interest. Any elected official, appointed officer, or employee of any agency or  
395 political entity to which this charter applies who shall have any private financial interest,  
396 directly or indirectly, in any contract or matter pending before or within such entity shall  
397 disclose such private interest to the governing body of such agency or entity.
- 398 (d) Use of public property — No elected official, appointed officer, or employee of the city  
399 or any governmental agency or entity to which this charter applies shall use property owned  
400 by such governmental agency or entity for personal benefit, convenience, or profit, except  
401 in accordance with policies promulgated by the mayor and council or the governing body of  
402 such agency or entity.
- 403 (e) Contracts voidable and rescindable — Any violation of this section which occurs with  
404 the knowledge, express or implied, of a party to a contract or sale shall render such contract  
405 or sale voidable at the option of the mayor and council.

406 (f) Ineligibility of elected official — Except as authorized by law, neither the mayor nor any  
 407 council member shall hold any other elective or appointive office in the city or otherwise be  
 408 employed by such government or any agency thereof during the term for which that official  
 409 was elected. No former mayor and no former council member shall hold any appointive  
 410 office in the city until one year after the expiration of the term for which that official was  
 411 elected.

412 (g) Political activities of certain officers and employees — No appointive officer or  
 413 employee of the city shall continue in such employment upon qualifying as a candidate for  
 414 nomination or election to any public office which, in the determination of the mayor and  
 415 council, would or could conflict with the performance of the officer's or employee's city job;  
 416 and as may be further defined in the city's personnel policy.

417 (h) Penalties for violation — Any city officer who knowingly conceals such financial  
 418 interest or knowingly violates any of the requirements of this section shall be guilty of  
 419 malfeasance in office or position and shall be deemed to have forfeited that person's office  
 420 or position. Any officer of the city who shall forfeit an office or position as described herein  
 421 shall be ineligible for appointment or election to or employment in a position in the city  
 422 government for a period of three years thereafter.

#### 423 **SECTION 2.18.**

#### 424 Inquiries and investigations.

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

#### 431 **SECTION 2.19.**

#### 432 General power and authority of the mayor and council.

433 (a) Except as otherwise provided by this charter, the mayor and council shall be vested with  
 434 all the powers of government of this city.

435 (b) In addition to all other powers conferred upon it by law, the mayor and council shall  
 436 have the authority to adopt and provide for the execution of such ordinances, resolutions,  
 437 rules, and regulations, not inconsistent with this charter and the Constitution and the laws of  
 438 the State of Georgia, which it shall deem necessary, expedient, or helpful for the peace, good

439 order, protection of life and property, health, welfare, sanitation, comfort, convenience,  
440 prosperity, and well-being of the inhabitants of the City of Baxley and may enforce such  
441 ordinances by imposing penalties for violation thereof.

442 **SECTION 2.20.**

443 Public facilities; eminent domain.

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

452 **SECTION 2.21.**

453 Organizational meetings.

454 The mayor and council shall hold an organizational meeting at the first regular meeting in  
455 January following an election. The meeting shall be called to order by the mayor or city  
456 clerk and the oath of office shall be administered to the newly elected members by an officer  
457 authorized by law to administer oaths and shall be as follows:

458 "I do solemnly (swear or affirm) that I will faithfully perform the duties of (mayor) (council  
459 member) of the City of Baxley, and that I will support and defend the charter thereof as  
460 well as the Constitution and laws of the State of Georgia and of the United States of  
461 America. I am not the holder of any unaccounted for public money due this state or any  
462 political subdivision or authority thereof. I am not the holder of any office of trust under  
463 the government of the United States, any other state, or any foreign state which I by the  
464 laws of the State of Georgia am prohibited from holding. I am otherwise qualified to hold  
465 such office according to the Constitution and laws of Georgia. I have been a resident of  
466 [my district and] the City of Baxley for the time required by the Constitution and laws of  
467 this state and by the municipal charter. I will perform the duties of my office in the best  
468 interest of the City of Baxley to the best of my ability without fear, favor, affection,  
469 redistrict, or expectation thereof, and in all things pertaining to my office, I will be  
470 governed by my conviction to the public good, so help me God."

471

**SECTION 2.22.**

472

## Regular and special meetings.

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

475 (b) Special meetings of the mayor and council may be held on call of the mayor or three  
476 members of the council. Notice of such special meetings shall be served on all other  
477 members personally in writing or orally, or by telephone personally, at least 48 hours in  
478 advance of the meeting. Such notice to mayor and council member shall not be required if  
479 the mayor and all council members are present when the special meeting is called. Such  
480 notice may be waived by the mayor or by a council member in writing before or after such  
481 a meeting, and attendance at the meeting shall also constitute a waiver of notice on any  
482 business transacted in such mayor or council member's presence. Only the business stated  
483 in the call may be transacted at the special meeting, unless the call states that any other  
484 business may be conducted.

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

489

**SECTION 2.23.**

490

## Rules of procedure.

491 (a) The mayor and council shall adopt its rules of procedure and order of business consistent  
492 with the provisions of this charter and shall provide for keeping minutes of its proceedings,  
493 which shall be a public record.

494 (b) All committees and committee chairs and officers of the mayor and council shall be  
495 appointed by majority vote of the council members and shall serve at the pleasure of the  
496 mayor and council.

497

**SECTION 2.24.**

498

## Quorum; voting.

499 (a) Any four members of the mayor and council, including the mayor or mayor pro tempore,  
500 shall constitute a quorum and shall be authorized to transact the business of the mayor and  
501 council. Voting on the adoption of ordinances or resolutions shall be by voice vote and the  
502 vote shall be recorded in the minutes, but any member of the council shall have the right to

503 request a roll call vote and such vote shall be recorded in the minutes. Except as otherwise  
 504 provided in this charter, the affirmative vote of four council members, or in the case of a tie,  
 505 three council members and the mayor shall be required for the adoption of any ordinance,  
 506 resolution or other act of the mayor and council.

507 (b) No member of the mayor and council shall abstain from voting on any matter properly  
 508 brought before the mayor and council for official action except when such mayor or council  
 509 member has a conflict of interest which is disclosed prior to or at the meeting and made a  
 510 part of the minutes. Any member of the mayor and council present and eligible to vote on  
 511 a matter and refusing to do so for any reason other than a properly disclosed and recorded  
 512 conflict of interest shall be deemed to have acquiesced or concurred with the members of the  
 513 majority who did vote on the question involved.

514 **SECTION 2.25.**

515 Ordinance form; procedures.

516 (a) Every proposed ordinance should be introduced in writing and in the form required for  
 517 final adoption, subject to such changes as may be made and voted on by the mayor and  
 518 council prior to or at the time of its adoption, and after being presented for consideration at  
 519 any meeting of the mayor and council, shall be posted in full in an area designated for such  
 520 purposes that is open to the public during the hours the office of the city clerk is open. No  
 521 ordinance shall contain a subject which is not expressed in its title. The enacting clause shall  
 522 be "It is hereby ordained by the mayor and council of the City of Baxley".

523 (b) An ordinance may be introduced by any council member and be read in full or by title  
 524 only at a regular or special meeting of the mayor and council. Ordinances shall be  
 525 considered and adopted or rejected by the mayor and council in accordance with the rules  
 526 that it shall establish; provided, however, an ordinance shall not be adopted the same day it  
 527 is introduced, except for emergency ordinances as provided in Section 2.27 of this charter.  
 528 Upon introduction of any ordinance, the clerk shall as soon as possible distribute a copy to  
 529 the mayor and each council member and shall post a copy for public viewing at such place  
 530 as may be designated for such purposes.

531 **SECTION 2.26.**

532 Action requiring an ordinance.

533 Acts of the mayor and council which have the force and effect of law shall be enacted by  
 534 ordinance.



535 **SECTION 2.27.**

536 Emergencies.

537 To meet a public emergency affecting life, health, property, or public peace, the mayor and  
 538 council may convene on the call of the mayor or three council members and may promptly  
 539 adopt an emergency ordinance, but such ordinance shall not levy taxes; grant, renew, or  
 540 extend a franchise; regulate the rates charged by any public utility for its services; or  
 541 authorize the borrowing of money, except for loans to be repaid within 30 days. An  
 542 emergency ordinance shall be introduced in the form prescribed for ordinances generally,  
 543 except that it shall be plainly designated as an emergency ordinance and shall contain, after  
 544 the enacting clause, a declaration stating that an emergency exists and describing the  
 545 emergency in clear and specific terms. An emergency ordinance may be adopted, with or  
 546 without amendment, or rejected at the meeting at which it is introduced, but the affirmative  
 547 vote of at least three council members shall be required for adoption. It shall become  
 548 effective upon adoption or at such later time as it may specify. Every emergency ordinance  
 549 shall automatically stand repealed 30 days following the date upon which it was adopted, but  
 550 this shall not prevent reenactment of the ordinance in the manner specified in this section if  
 551 the emergency continues to exist. An emergency ordinance may also be repealed by  
 552 adoption of a repealing ordinance in the same manner specified in this section for adoption  
 553 of emergency ordinances.

554 **SECTION 2.28.**

555 Codes of technical regulations.

556 (a) As may be consistent with law, the mayor and council may adopt building, housing,  
 557 property maintenance, plumbing, electrical, gas, mechanical, or fire codes or any other  
 558 standard codes of technical regulations by reference thereto in an adopting ordinance. The  
 559 procedure and requirements governing such adopting ordinance shall be as prescribed for  
 560 ordinances generally except that:

561 (1) The requirements of subsection (b) of Section 2.25 of this charter for distribution and  
 562 filing of copies of the ordinance shall be construed to include copies of any code of  
 563 technical regulations, as well as the adopting ordinance; and

564 (2) A copy of each adopted code of technical regulations, as well as the adopting  
 565 ordinance, shall be authenticated and recorded by the city clerk pursuant to Section 2.29  
 566 of this charter.

567 (b) Copies of any adopted code of technical regulations shall be made available by the city  
 568 clerk for distribution or for purchase at a reasonable price.

569

**SECTION 2.29.**

570

Ordinance book; codification of ordinances; availability of laws.

571 (a) The city clerk shall authenticate by his or her signature and record in full in a properly

572 indexed book kept for that purpose all ordinances adopted by the mayor and council.

573 (b) The mayor and council shall provide for the preparation of a codification of ordinances

574 of the city as required by law.

575 (c) The mayor and council shall cause each ordinance and each amendment to this charter

576 to be printed following its adoption, and the printed ordinances and charter amendments shall

577 be made available for purchase by the public at reasonable prices. The ordinances shall be

578 printed in substantially the same style as the codification then in effect and shall be suitable

579 in form for incorporation within the codification. The mayor and council shall make such

580 further arrangements as deemed desirable for reproduction and distribution of any changes

581 in or additions to codes of technical regulations and other rules and regulations included or

582 adopted by reference in the codification.

583

**SECTION 2.30.**

584

City manager; appointment; qualifications.

585 By the majority vote, the mayor and council shall appoint a city manager for an indefinite

586 term or a term prescribed by the mayor and council; and a majority vote shall be required for

587 termination of appointment. The manager shall be appointed solely on the basis of his or her

588 executive and administrative qualifications, with special reference to actual experience in or

589 knowledge of accepted practice in respect to the duties of his or her office. The appointee

590 need not be a resident of the city. No member of the mayor and council shall receive such

591 appointment while in office, nor within one year after the expiration of such member's term.

592

**SECTION 2.31.**

593

Acting city manager.

594 By letter filed with the city clerk, the city manager shall designate, subject to the approval

595 of the mayor and council, a qualified city administrative officer to exercise the powers and

596 perform the duties of the city manager during his or her temporary absence or disability.

597 During such absence or disability, the mayor and council may revoke such designation at any

598 time and appoint another officer of the city to serve until the manager shall return or his or

599 her disability shall cease.

600

**SECTION 2.32.**

601

## Powers and duties of the city manager.

602 The city manager shall be the chief administrative officer of the city. He or she shall be  
 603 responsible to the mayor and council for the administration of all city affairs placed in his or  
 604 her charge by or under this charter. He or she shall have the following powers and duties:

605 (1) Appoint, and when he or she deems it necessary for the good of the city, suspend or  
 606 remove all city employees and administrative officers, except as otherwise provided by  
 607 law, this charter, or personnel ordinances adopted pursuant to this charter;

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

610 (3) Attend all mayor and council meetings with the right to take part in the discussion,  
 611 but he or she may not vote. The city manager shall be entitled to notice of all regular and  
 612 special meetings of the mayor and council;

613 (4) See that all laws, provisions of this charter, and acts of the mayor and council subject  
 614 to enforcement by him or her, or by officers subject to his or her direction and  
 615 supervision, are faithfully executed;

616 (5) Prepare and submit the annual operating budget and capital budget to the mayor and  
 617 council, together with a message describing the important features, and be responsible for  
 618 its administration after adoption;

619 (6) Submit to the mayor and council and make available to the public a complete report  
 620 on the finances and administrative activities of the city as of the end of each fiscal year;

621 (7) Make such other reports as the mayor and council may require concerning the  
 622 operations of city departments, offices, and agencies subject to his or her direction and  
 623 supervision;

624 (8) Establish powers and duties of, and recommend to the mayor and council a standard  
 625 schedule of pay for, each appointive office and position in the city service, including  
 626 minimum, intermediate, and maximum rates of pay, except as may otherwise be provided  
 627 by law or this charter;

628 (9) Recommend to the mayor and council, from time to time, adoption of such measures  
 629 as may be deemed necessary or expedient for the health, safety, or welfare of the  
 630 inhabitants of the city or for the improvement of administrative services;

631 (10) Consolidate or combine offices, positions, departments, or units under his or her  
 632 jurisdiction with the approval of the mayor and council; the city manager may be the head  
 633 of one or more departments;

634 (11) Investigate the affairs of the city or any department or division thereof; including  
 635 investigation of all complaints in relation to matters concerning the administration of the

636 government of the city and in regard to service maintained by the public utilities in the  
637 city and assurance that all franchises, permits, and privileges granted by the city are  
638 faithfully observed;

639 (12) Keep the mayor and council fully advised as to the financial condition and future  
640 needs of the city and make such recommendations to the mayor and council concerning  
641 the affairs of the city as he or she deems desirable; and

642 (13) Perform such other duties as are specified in this charter or as may be required by  
643 the mayor and council.

644 **SECTION 2.33.**

645 Council interference with administration.

646 Neither the mayor and council nor any of its members shall direct or request any person's  
647 appointment to or removal from office by the city manager or any of the manager's  
648 subordinates, nor in any manner take part in the appointment or removal of officers and  
649 employees in the administrative services of the city. Except for the purpose of inquiries and  
650 investigations under Section 2.18 of this charter, the mayor and council or its members shall  
651 deal with city officers and employees who are subject to the direction and supervision of the  
652 city manager solely through the city manager, and neither the mayor and council nor its  
653 members shall give orders to any such officer or employee, either publicly or privately.

654 **SECTION 2.34.**

655 Emergencies.

656 In case of an accident, disaster, or other circumstance creating a public emergency, the city  
657 manager may administer contracts and make purchases for the purpose of meeting such  
658 emergency, but he or she shall file promptly with the mayor and council a certificate showing  
659 such emergency and the necessity for such action, together with an itemized account of all  
660 expenditures.

661 **SECTION 2.35.**

662 Compensation.

663 The city manager shall receive such compensation as prescribed by the mayor and council.

664 **SECTION 2.36.**

665 Election of mayor.

666 At a regular election of the city, the voters of the city shall elect a mayor at large for a term  
 667 of four years and until a successor is elected and qualified. The mayor shall be a qualified  
 668 elector of this city and shall have been a resident of the city for 12 months prior to the  
 669 election. The mayor shall continue to reside in this city during the period of service. No  
 670 person shall be eligible to serve as mayor who shall have been convicted of a crime involving  
 671 moral turpitude unless such person has received a full pardon and has had all rights of  
 672 citizenship restored. The mayor shall forfeit the office on the same grounds and under the  
 673 same procedure as for council members. The compensation of the mayor shall be established  
 674 in the same manner as for council members.

675 **SECTION 2.37.**

676 Mayor pro tempore.

677 The mayor and council shall elect one council member from among its members who shall  
 678 act as mayor pro tempore during the absence or disability of the mayor, but shall only vote  
 679 once on matters before the mayor and council. If a vacancy occurs, the mayor pro tempore  
 680 shall become mayor for the remainder of the unexpired term, or until a special election is  
 681 completed pursuant to subsection (b) of Section 2.13 of this charter if 12 months or more  
 682 remains in the unexpired term.

683 **SECTION 2.38.**

684 Powers and duties of mayor.

685 The mayor shall:

- 686 (1) Be the titular head of the municipal government;
- 687 (2) Preside at all meetings of the mayor and council;
- 688 (3) Be the head of the city for the purpose of service of process and for ceremonial  
 689 purposes, and be the official spokesperson for the city and the chief advocate of policy;
- 690 (4) Have the power to administer oaths and to take affidavits;
- 691 (5) Have a vote upon any question before the mayor and council only when the vote is  
 692 evenly divided; and
- 693 (6) Sign as a matter of course on behalf of the city all written and approved contracts,  
 694 ordinances, and other instruments executed by the city which by law are required to be  
 695 in writing.

696

**SECTION 2.39.**

697

Position of mayor pro tempore.

698 During the absence or physical or mental disability of the mayor for any cause, the mayor  
 699 pro tempore, or in the mayor pro tempore's absence or disability for any reason, any one of  
 700 the council members chosen by a majority vote of the mayor and council, shall be clothed  
 701 with all rights and privileges of the mayor and shall perform the duties of the office of mayor  
 702 so long as such absence or disability shall continue. Any such absence or disability shall be  
 703 declared by majority vote of all council members. The mayor pro tempore or selected  
 704 council member shall sign all contracts and ordinances in which the mayor has a  
 705 disqualifying financial interest as provided in Section 2.17 of this charter. When acting as  
 706 mayor, the mayor pro tempore shall continue to have only one vote as a member of the  
 707 mayor and council.

708

**ARTICLE III**

709

**ADMINISTRATIVE AFFAIRS**

710

**SECTION 3.10.**

711

Boards, commissions, and authorities.

712 (a) The mayor and council shall create by ordinance such boards, commissions, and  
 713 authorities to fulfill any investigative, quasi-judicial, or quasi-legislative function that the  
 714 mayor and council may deem necessary and shall by ordinance establish the composition,  
 715 period of existence, duties, and powers thereof.

716 (b) All members of boards, commissions, and authorities of the city shall be appointed by  
 717 the mayor and council for such terms of office and in such manner as shall be provided by  
 718 ordinance, except where other appointing authority, terms of office, or manner of  
 719 appointment is prescribed by this charter or by law.

720 (c) The mayor and council, by ordinance, may provide for the compensation and  
 721 reimbursement for actual and necessary expenses of the members of any board, commission,  
 722 or authority.

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

726 (e) No member of a board, commission, or authority shall assume office until he or she has  
 727 executed and filed with the city clerk an oath obligating himself or herself to perform  
 728 faithfully and impartially the duties of his or her office, such oath to be prescribed by  
 729 ordinance and administered by a person authorized by law to administer oaths.

730 (f) All members of a board, commission, or authority shall serve at will, and any such  
731 members may be removed from office by a majority vote of the mayor and council.

732 (g) Except as otherwise provided by this charter or by law, each board, commission, or  
733 authority of the city shall elect one of its members as chairperson and one member as vice  
734 chairperson, and may elect as its secretary one of its members or may appoint as secretary  
735 an employee of the city. Each board, commission, or authority of the city government may  
736 establish such bylaws, rules, and regulations not inconsistent with this charter, the ordinances  
737 of the city, or law as it deems appropriate and necessary for the fulfillment of its duties or the  
738 conduct of its affairs. Copies of such bylaws, rules, and regulations shall be filed with the  
739 city clerk.

740 (h) All boards, commissions, and authorities previously established and duly appointed by  
741 the mayor and council prior to the effective date of this charter are hereby continued under  
742 this charter and shall remain in full force and effect subsequent to the enactment of this  
743 charter. Any such board, commission, or authority so continued shall continue to have the  
744 powers, duties, rights, obligations, and liabilities that exist on the effective date of this charter  
745 and shall be subject to all laws, subject to the provisions of this charter, that are not in  
746 conflict therewith.

747 **SECTION 3.11.**

748 City clerk.

749 The mayor and council shall appoint or remove a city clerk who shall not be a council  
750 member. The city clerk shall be custodian of the official city seal and city records; maintain  
751 mayor and council records required by this charter; and perform such other duties as may be  
752 required by the mayor and council.

753 **SECTION 3.12.**

754 City attorney.

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

763 position as city attorney. The city attorney is not an officer or public official of the city and  
 764 does not take an oath of office. The city attorney shall at all times be an independent  
 765 contractor.

766 **SECTION 3.13.**

767 Rules and regulations.

768 The mayor and council, through the adoption of an employee handbook, shall adopt rules and  
 769 regulations consistent with this charter concerning:

- 770 (1) The method of employee selection and probationary periods of employment;  
 771 (2) The administration of a position classification and pay plan, methods of promotion  
 772 and applications of service ratings thereto, and transfer of employees within the  
 773 classification plan;  
 774 (3) Hours of work, vacation, sick leave and other leaves of absence, overtime pay, and  
 775 the order and manner in which layoffs shall be effected;  
 776 (4) Such dismissal hearings as due process may require; and  
 777 (5) Such other personnel notices as may be necessary to provide for adequate and  
 778 systematic handling of personnel matters.

779 **SECTION 3.14.**

780 Personnel policies.

781 (a) All employees are at-will and may be removed from office at any time unless otherwise  
 782 provided by ordinance;

783 (b) Personnel policies, handbooks, and ordinances previously established by the mayor and  
 784 council prior to enactment of this charter shall continue in full force and effect subsequent  
 785 to the enactment of this charter until otherwise modified by the mayor and council pursuant  
 786 to applicable law.

787 **ARTICLE IV.**

788 **JUDICIAL BRANCH**

789 **SECTION 4.10.**

790 Municipal court.

791 There shall be a court to be known as the Municipal Court of the City of Baxley.



792

**SECTION 4.11.**

793

**Judges.**

794 (a) The municipal court shall be presided over by a chief judge and such part-time, full-time,  
795 or standby judges as shall be provided by the mayor and council.

796 (b) The chief judge shall be appointed by the mayor and council for a term of one year.

797 (c) No person shall be qualified or eligible to serve as a judge on the municipal court unless  
798 he or she shall have attained the age of 25 years and shall have been a member of the State  
799 Bar of Georgia for a minimum of three years. All judges shall be appointed by the mayor  
800 and council.

801 (d) The compensation of the judge or judges shall be fixed by the mayor and council.

802 (e) The judge or judges may be removed for cause by a majority vote of the mayor and  
803 council.

804 (f) Before assuming office, each judge shall take an oath, administered by a person  
805 authorized by law to administer oaths, that he or she shall honestly and faithfully discharge  
806 the duties of his or her office to the best of his or her ability and without fear, favor, or  
807 partiality. The oath shall be entered upon the records of the mayor and council.

808 (g) Whenever no judge of the city can be in attendance in the municipal court for any reason,  
809 a person having the qualifications of a judge of the municipal court may be appointed by the  
810 chief judge or the mayor to preside in the court, and his or her acts therein shall be as binding  
811 as those of a regular judge of the court.

812

**SECTION 4.12.**

813

**Convening of court.**

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

816 (b) The municipal court shall have the authority to punish those in its presence for contempt,  
817 provided that such punishment shall not exceed the maximum penalty imposed by state law.

818 (c) The municipal court may fix punishment for offenses within its jurisdiction not  
819 exceeding the maximum fine and imprisonment as provided by state law.

820 (d) The municipal court shall have the authority to establish a schedule of fees to defray the  
821 costs of operation and shall be entitled to reimbursement of the actual cost of meals,  
822 transportation, and care taking of prisoners bound over to superior or state courts for  
823 violation of state law.

824 (e) The municipal court shall have authority to establish bail and recognizances to ensure  
825 the presence of those charged with violations before the court and shall have discretionary

826 authority to accept cash or personal or real property as a surety bond for the appearance of  
827 persons charged with violations. Whenever any person gives bail for his or her appearance  
828 and fails to appear at the time fixed for trial, his or her bond shall be forfeited by the judge  
829 presiding at such time and an execution shall be issued thereon by serving the defendant and  
830 his or her sureties with a rule nisi at least two days before a hearing on the rule nisi.

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

834 (g) The municipal court shall have the authority to bind prisoners over to the appropriate  
835 court when it appears by probable cause that any statute has been violated.

836 (h) Each judge of the municipal court may compel the presence of all persons necessary to  
837 a proper disposal of each case by the issuance of summonses, subpoenas, and warrants,  
838 which may be served or executed by any officer as authorized by this charter or by law.

839 (i) The judge or judges of the municipal court shall be authorized to issue warrants for the  
840 arrest of persons charged with offenses against any ordinance of the city, and each judge of  
841 the municipal court shall have the same authority as a magistrate of the state to issue warrants  
842 for offenses against state laws committed within the city.

843 (j) The municipal court is specifically vested with all the jurisdiction and powers throughout  
844 the geographic area of this city granted by law to municipal courts and particularly by such  
845 laws as authorize the abatement of nuisances and the prosecution of traffic violations.

#### 846 **SECTION 4.13.**

847 Certiorari.

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

#### 852 **SECTION 4.14.**

853 Rules.

854 With the approval of the mayor and council, the judge or judges shall have full power and  
855 authority to make reasonable rules and regulations necessary and proper to secure the  
856 efficient and successful administration of the municipal court; provided, however, that the  
857 mayor and council may adopt in part or in toto the rules and regulations applicable to  
858 municipal courts. The rule and regulations made or adopted shall be filed with the city clerk,

859 shall be available for public inspection, and upon request, shall be furnished to all defendants  
860 in municipal court proceedings at least 48 hours prior to such proceedings.

861 **ARTICLE V.**  
862 **FINANCE**  
863 **SECTION 5.10.**  
864 **Property tax.**

865 The mayor and council may assess, levy, and collect an ad valorem tax on all taxable real and  
866 personal property within the corporate limits of the city. This tax is for the purpose of raising  
867 revenues to defray the costs of operating the city government, of providing governmental  
868 services, for the repayment of principal and interest on general obligations, and for any other  
869 public purpose as determined by the mayor and council in its discretion.

870 **SECTION 5.11.**  
871 **Millage.**

872 (a) The mayor and council by ordinance shall establish a millage rate for the city property  
873 tax, a due date, and the time period within which these taxes must be paid.  
874 (b) The millage rate levied pursuant to this article shall not exceed 20 mills, except that such  
875 limitation shall not apply with respect to any ad valorem tax levied for the purpose of  
876 payment of any general obligation debt of the city.  
877 (c) The mayor and council by ordinance may provide for the payment of these taxes by  
878 installments or in one lump sum, as well as authorize the voluntary payment of taxes prior  
879 to the time when due.

880 **SECTION 5.12.**  
881 **Occupation taxes and regulatory fees.**

882 The mayor and council by ordinance shall have the power to levy and to provide for the  
883 collection of such occupation taxes and regulatory fees as are not denied by law on  
884 privileges, occupations, trades, professions, and any other lawful subjects thereof and may  
885 regulate the same. Such taxes and fees may be levied on individuals, firms, corporations, and  
886 other entities that transact business in the city of that practice or offer to practice any  
887 profession or calling within the city to the extent that they have, in accordance with law, a  
888 sufficient nexus to the city. The mayor and council shall provide for the manner and method  
889 of payment of such taxes and fees. The mayor and council may classify businesses,

890 occupations, professions, or callings for the purpose of such taxes and fees in any way which  
891 may be lawful, and may compel the payment of such taxes and fees as provided in Section  
892 5.18 of this charter.

893 **SECTION 5.13.**

894 Licenses and permits.

895 The mayor and council, by ordinance, shall have the power to require any individual, firm,  
896 corporation, or other entity that transacts business in the city or that practices or offers to  
897 practice any profession or calling within the city to obtain a license or permit for such  
898 activity from the city and to pay a reasonable fee for such license or permit where such  
899 activities are not exclusively regulated by general law. The city may also regulate such  
900 activities and shall provide for the manner and method of payment of such fees. Fees under  
901 this section, if unpaid, shall be collected as provided in Section 5.18 of this charter. The  
902 council, by ordinance, may establish reasonable requirements for obtaining or keeping such  
903 licenses as the public health, safety, and welfare necessitate. The mayor and council may  
904 revoke any such license or permit after due process for failure to pay any city taxes or fees  
905 or for other cause determined by the mayor and council.

906 **SECTION 5.14.**

907 Franchises.

908 The mayor and council shall have the power to grant franchises and rights of way for the use  
909 of the city's streets, roads, alleys, bridges, and viaducts for the purposes of railroads, street  
910 railways, electric companies, gas companies, transportation companies, telecommunications  
911 companies, other public utilities and organizations, and for private use. The mayor and  
912 council shall determine the duration and terms of franchises, whether they shall be exclusive  
913 or nonexclusive, and the consideration for such franchises; provided, however, that no  
914 franchise shall be granted for a longer period than may be specified by the Constitution and  
915 general laws of this state and no franchise shall be granted unless the city receives just and  
916 adequate compensation therefor. The mayor and council shall provide for the registration  
917 of all franchises with the city clerk in a registration book kept by him or her. The mayor and  
918 council may provide by ordinance for the registration within a reasonable time of all  
919 franchises previously granted.

920 **SECTION 5.15.**

921 Service fees.

922 The mayor and council, by ordinance, shall have the power to assess and collect fees,  
 923 charges, and tolls for sewers, sanitary and health services, or any other services provided or  
 924 made available inside or outside the corporate limits of the city for the total cost to the city  
 925 of providing or making available such services. If unpaid, such charges shall be collected  
 926 as provided in Section 5.18 of this charter.

927 **SECTION 5.16.**

928 Roads.

929 The mayor and council by ordinance shall have the power to assess, charge, and collect the  
 930 costs of constructing, reconstructing, widening, or improving any public way, street,  
 931 sidewalk, curbing, gutters, sewers, or other utility mains and appurtenances from the abutting  
 932 property owners under such terms and conditions as are reasonable. If unpaid, such charges  
 933 shall be collected as provided in Section 5.18 of this charter.

934 **SECTION 5.17.**

935 Other taxes.

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

939 **SECTION 5.18.**

940 Collection of delinquent taxes.

941 The mayor and council by ordinance may provide generally for the collection of delinquent  
 942 taxes, fees, or other revenue due the city under Sections 5.10 through 5.17 of this charter by  
 943 whatever reasonable means as are not precluded by law. Such means shall include, but shall  
 944 not be limited to, providing for the dates when the taxes are due, late penalties or interest,  
 945 issuance and execution of writs of fieri facias (fi.fa.'s), creation and priority of liens, making  
 946 delinquent taxes and fees personal debts of the persons required to pay the taxes or fees  
 947 imposed, and providing for the assignment or transfer of tax executions.

948 **SECTION 5.19.**

949 Borrowing.

950 The mayor and council shall have the power to issue bonds and notes for the purpose of  
 951 raising revenue to carry out any project, program, or venture authorized under this charter  
 952 or the laws of this state. Such bonding authority shall be exercised in accordance with the  
 953 laws governing bond issuance by municipalities in effect at the time that an issue is  
 954 undertaken.

955 **SECTION 5.20.**

956 Revenue bonds.

957 Revenue bonds may be issued by the mayor and council as state law now or hereafter  
 958 provides. Such bonds shall be paid out of any revenue produced by the project, program, or  
 959 venture for which they are issued.

960 **SECTION 5.21.**

961 Loans.

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

964 **SECTION 5.22.**

965 Accounting and budgeting.

966 The mayor and council shall set the fiscal year by ordinance. This fiscal year shall constitute  
 967 the budget year and the year for financial accounting and reporting of every office,  
 968 department, agency, and activity of the city government.

969 **SECTION 5.23.**

970 Budget ordinance.

971 The mayor and council shall by ordinance provide the procedures and requirements for the  
 972 preparation and execution of an annual operating budget, a capital improvement program,  
 973 and a capital budget, including requirements as to the scope, content, and form of such  
 974 budgets and program.

975 **SECTION 5.24.**

976 Operating budget.

977 The city manager shall submit to the mayor and council a proposed operating budget for each  
 978 ensuing fiscal year. The budget shall be accompanied by a message from the city manager  
 979 containing a statement of the general fiscal policies of the city, the important features of the  
 980 budget, explanations of major changes recommended for the next fiscal year, a general  
 981 summary of the budget, and such other comments and information as the city manager may  
 982 deem pertinent. The operating budget, the capital improvements program, the capital budget,  
 983 the budget message, and all supporting documents shall be filed in the office of the city clerk  
 984 and shall be open to public inspection.

985 **SECTION 5.25.**

986 Adoption of budget.

987 (a) The mayor and council may amend the operating budget proposed by the city manager,  
 988 except that the budget as finally amended and adopted must provide for all expenditures  
 989 required by state law or by this charter and for all debt service requirements for the ensuing  
 990 fiscal year. The total appropriations from any fund shall not exceed the estimated fund  
 991 balance, reserves, and revenues.

992 (b) After the conducting of a budget hearing, the mayor and council shall adopt the final  
 993 operating budget for the ensuing fiscal year not later than the beginning of each fiscal year.  
 994 If the mayor and council fails to adopt the budget by such date, the dollar amounts  
 995 appropriated for operation for the preceding fiscal year shall be deemed adopted for the  
 996 ensuing fiscal year on a month-to-month basis, with all items prorated accordingly, until such  
 997 time as the mayor and council adopts a budget for the ensuing fiscal year. Adoption of the  
 998 budget shall take the form of an appropriations ordinance or resolution setting out the  
 999 estimated revenues in detail by sources and making appropriations according to fund and by  
 1000 organization unit, purpose, or activity as set out in the budget preparation ordinance adopted  
 1001 pursuant to Section 5.23 of this charter.

1002 (c) The amount set out in the adopted operating budget for each organizational unit shall  
 1003 constitute the annual appropriation for such unit, and no expenditure shall be made or  
 1004 encumbrance created in excess of the otherwise unencumbered balance of the appropriations  
 1005 or allotments thereof to which it is chargeable, except as such budget may be amended by  
 1006 the mayor and council pursuant to Section 5.27 of this charter.

**SECTION 5.26.**

## Levy of taxes.

1009 Following adoption of the operating budget, the mayor and council shall levy by a majority  
 1010 vote of the mayor and council such taxes as are necessary. The taxes and tax rates shall be  
 1011 such that reasonable estimates of revenues from such levy shall at least be sufficient, together  
 1012 with other anticipated revenues, fund balances, and applicable reserves, to equal the total  
 1013 amount appropriated for each of the several funds set forth in the annual operating budget  
 1014 for defraying the expense of the general government of the city.

**SECTION 5.27.**

## Changes in budget.

1017 The mayor and council, by majority vote, may make changes in the appropriations contained  
 1018 in the current operating budget at any regular meeting or at any special meeting called for  
 1019 such purposes.

**SECTION 5.28.**

## Capital improvements.

1022 No appropriations provided for in a prior capital improvements program and capital budget  
 1023 shall lapse until the purpose for which the appropriations were made shall have been  
 1024 accomplished or abandoned; however, the city manager may submit amendments to the  
 1025 capital improvements program and the capital budget at any time during the fiscal year,  
 1026 accompanied by his or her recommendations. Any such amendments to the capital  
 1027 improvements program and the capital budget shall become effective only upon adoption by  
 1028 majority vote of the mayor and council.

**SECTION 5.29.**

## Audits.

1031 There shall be an annual independent audit of all city accounts, funds, and financial  
 1032 transactions by a certified public accountant selected by the mayor and council. The audit  
 1033 shall be conducted according to generally accepted accounting principles. Any audit of any  
 1034 funds by the state or federal government may be accepted as satisfying the requirements of  
 1035 this section. Copies of all audit reports shall be available at printing cost to the public.



1036 **SECTION 5.30.**

1037 Procurement and property management.

1038 No contract with the city shall be binding on the city unless it is:

1039 (1) In writing;

1040 (2) Drawn by or submitted to and reviewed by the city attorney and, as a matter of course,  
1041 signed by him or her to indicate such drafting or review; and

1042 (3) Made or approved by the mayor and council and such approval is entered in the mayor  
1043 and council minutes pursuant to Section 2.23 of this charter.

1044 **SECTION 5.31.**

1045 Purchasing.

1046 The mayor and council shall prescribe procedures for a system of centralized purchasing for  
1047 the city.

1048 **SECTION 5.32.**

1049 Sale of property.

1050 (a) The mayor and council may sell and convey any real, personal, or mixed property owned  
1051 or held by the city for governmental or other purposes as now or hereafter provided by law.

1052 (b) The mayor and council may quitclaim any rights it may have in property not needed for  
1053 public purposes upon request by the city manager and adoption of a resolution finding that  
1054 the property is not needed for public or other purposes and that the interest of the city has no  
1055 readily ascertainable monetary value.

1056 (c) Whenever in opening, extending or widening any street, avenue, alley, or other public  
1057 place of the city a small parcel or tract of land is cut off or separated by such work from a  
1058 larger tract or boundary of land owned by the city, the mayor and council may authorize the  
1059 city manager to execute and deliver in the name of the city a deed conveying such cutoff or  
1060 separated parcel or tract of land to an abutting or adjoining property owner or owners in  
1061 exchange for rights of way of such street, avenue, alley, or other public place when such  
1062 exchange is deemed to be in the best interest of the city. All deeds and conveyances  
1063 heretofore or hereafter so executed and delivered shall convey all title and interest that the  
1064 city has in such property, notwithstanding the fact that no public sale after advertisements  
1065 was or is hereafter made.

**SECTION 5.33.**

Deposits.

The city shall select some chartered bank or banks or other chartered depository financial institution or institutions as a city depository or depositories, in which shall be deposited all city funds that are not otherwise lawfully invested.

**ARTICLE VI****GENERAL PROVISIONS****SECTION 6.10.**

Bonds for officials.

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

**SECTION 6.11.**

Ordinances, resolutions, rules and regulations.

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

**SECTION 6.12.**

Charter language on other general matters.

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

**SECTION 6.13.**

Definitions and construction.

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

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

1094 (c) The singular shall include the plural, and the masculine shall include the feminine, and  
1095 vice versa.

1096 **SECTION 6.14.**

1097 Specific repealer.

1098 An Act incorporating the City of Baxley, approved February 23, 1875 (Ga. L. 1875, p. 156),  
1099 as amended, and the several Acts amendatory thereof, specifically including the Act  
1100 establishing the most recent charter for the City of Baxley, approved April 13, 1982 (Ga. L.  
1101 1982, p. 4725), and Acts amendatory thereof, are repealed. The official incorporation date  
1102 of the City of Baxley shall remain February 23, 1875.

1103 **SECTION 6.15.**

1104 Effective date.

1105 This Act shall become effective upon its approval by the Governor or upon its becoming law  
1106 without such approval.

1107 **SECTION 6.16.**

1108 General repealer.

1109 All laws and parts of laws in conflict with this Act are repealed.