

A BILL TO BE ENTITLED
AN ACT

To provide a new charter for the City of Dalton in Whitfield County, Georgia; to provide for incorporation, boundaries, and powers of the city; to provide for a governing authority of such city and the powers, duties, authority, election, terms, method of filling vacancies, compensation, qualifications, prohibitions, and removal from office relative to members of such governing authority; to provide for inquiries and investigations; to provide for organization and procedures; to provide for ordinances and codes; to provide for administrative responsibilities; to provide for boards, commissions, and authorities; to provide for a city administrator, a city attorney, a city clerk, and other personnel; to provide for rules and regulations; to provide for a municipal court and the judge or judges thereof; to provide for practices and procedures; to provide for taxation 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 the sale of property; to provide for penalties; to provide for an independent school system; to provide for public utilities; to provide for definitions and construction; to provide for other matters relative to the foregoing; to provide for severability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I

INCORPORATION AND POWERS

SECTION 1.10.

Name.

The city of Dalton in Whitfield County, Georgia, and the inhabitants thereof, are reincorporated by the enactment of this charter and are hereby constituted and declared a body politic and corporate under the name and style City of Dalton, Georgia and by that name shall have perpetual succession.

SECTION 1.11.

Corporate boundaries.

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

(b) The mayor and council may provide for the redrawing of any such map by ordinance to reflect lawful changes in the corporate boundaries. A redrawn map shall supersede for all purposes

the entire map or maps which it is designated to replace.

SECTION 1.12.

Powers and construction.

(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. These powers shall include, but not be limited to, the following:

(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, fire, property maintenance, 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 Official Code of Georgia Annotated, or other such 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.* 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 mayor and council, utilizing procedures enumerated in Title 22 of the Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter be enacted;

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

(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 preservation and improvement of air quality, the restoration and maintenance of water resources, the control of erosion and sedimentation, the management of stormwater and establishment of a stormwater utility, the management of solid and hazardous waste, and other necessary actions for the protection of the environment;

(9) *Ethics.* To adopt ethics ordinances and regulations governing the conduct of municipal elected officials, appointed officials, 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;

(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) *Jail sentences.* To provide that persons given jail sentences in the city's municipal 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 law, or to provide for commitment of such persons to any county work camp or county jail by agreement with the appropriate county officials;

(16) *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;

(17) *Municipal agencies and delegation of power.* To create, alter, or abolish

departments, boards, offices, commissions, 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;

(18) *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;

(19) *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 corporate limits of the city or the State of Georgia;

(20) *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;

(21) *Municipal utilities.* Except as otherwise set forth in this charter, 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, stormwater management, gas works, electric light plants, cable television and other telecommunications, transportation facilities, public airports, and any other public utility; to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties; and to provide for the withdrawal of service for refusal or failure to pay the same;

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

(23) *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;

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

(25) *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;

(26) *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;

(27) *Public improvements.* To provide for the acquisition, construction, building, operation, and maintenance of public ways, parks and playgrounds, recreational facilities, cemeteries, public buildings, libraries, public housing, parking facilities, or charitable, cultural, educational, recreational, conservation, sport, detentional, penal, and medical institutions, agencies, and facilities; and to provide any other public improvements, inside or outside 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 and Title 32 of the Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter be enacted;

- (28) *Public peace.* To provide for the prevention and punishment of loitering, disorderly conduct, public drunkenness, riots, and public disturbances;
- (29) *Public transportation.* To organize and operate such public transportation systems as are deemed beneficial;
- (30) *Regulation of roadside areas.* To prohibit or regulate and control the erection, removal, connection, and maintenance of signs, billboards, trees, shrubs, fences, buildings, driveways, curb cuts, 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;
- (31) *Retirement.* To provide and maintain a retirement plan for officers and employees of the city;
- (32) *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;
- (33) *Sale of alcoholic beverages.* The mayor and council shall have the power by ordinance to regulate, license and tax the wholesale and retail sale of alcoholic beverages within the city in a manner consistent with state law; and shall have the power to establish and impose by ordinance fines, license suspensions and license revocations for violations of alcoholic beverage ordinances;
- (34) *Sewer fees.* To levy a fee, charge, or sewer tax as necessary to assure the acquiring, constructing, equipping, operating, maintaining, and extending of a sewage disposal plant and sewerage system, and to levy on those to whom sewers and sewerage systems are made available a sewer service fee, charge, or sewer tax for the availability or use of the sewers; to provide for the manner and method of collecting such service charges and for enforcing payment of the same; and to charge, impose, and collect a sewer connection fee or fees to those connected with the system;
- (35) *Solid waste disposal.* To provide for the collection and disposal of garbage, rubbish, and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper, and other recyclable materials and to provide for the sale of such items;
- (36) *Special Areas of Public Regulation.* To regulate or prohibit junk dealers, the manufacture and sale of intoxicating liquors; to regulate the transportation, storage and use of combustible, explosive and inflammable materials, the use of lighting and heating equipment, and any other business or situation which may be dangerous to persons or property; to regulate and control the conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows of any kind, by taxation or otherwise; to license and

tax professional fortunetelling, palmistry, and massage parlors; and to restrict adult bookstores and other adult entertainment establishments to certain areas;

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

(38) *Taxes: ad valorem.* To levy and provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation; and to provide homestead exemption from such taxes.

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

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

(41) *Vehicles for hire.* To regulate and license vehicles operated for hire in the city; to limit the number of such vehicles; to require the operators thereof to be licensed; to require public liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to regulate the parking of such vehicles; and

(42) *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.

SECTION 1.13.

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, resolution, or as provided by pertinent laws of the State of Georgia.

ARTICLE II

GOVERNMENT STRUCTURE

SECTION 2.10.

Mayor and council; number; wards; election.

The legislative authority of the government of the city, except as otherwise specifically provided

in this charter, shall be vested in a governing body to be composed of a mayor and four councilmembers who shall be known as the Mayor and Council of the City of Dalton, Georgia. The governing body established shall in all respects be a successor to and continuation of the governing authority under prior law. The mayor and councilmembers shall be elected in the manner provided by general law and this charter. For the purpose of electing councilmembers, the city shall consist of four wards. The boundaries of the four wards shall be those existing on the effective date of the adoption of this charter with such alterations as may be made from time to time in the manner provided by law. The boundaries of each ward at all times shall be shown on a map, a written description, or any combination thereof, to be retained in the office of the city clerk and to be designated, as the case may be: "Official Map (or Description) of the Election Wards of the City of Dalton, Georgia." Photographic, typed, or other copies of such map or description certified by the city clerk shall be admitted as evidence in all courts and shall have the same force and effect as with the original map or description. Each candidate for the position of councilmember must reside in the ward he or she seeks to represent, but such wards shall be residency wards only and not voting wards. All elections for mayor and councilmembers shall be at-large by the voters of the entire city.

SECTION 2.11.

Terms and qualifications for office for mayor and councilmembers.

The mayor and councilmembers shall serve for terms of four years and until their respective successors are elected and qualified. No person shall be eligible to serve as mayor or councilmember unless that person shall have been a resident of the area comprising the corporate limits of the city for a continuous period of at least twelve (12) months immediately prior to the date of the 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. In addition to the above requirements, no person shall be eligible to serve as a councilmember representing a ward unless that person: (i) has been a resident of the ward such person seeks to represent for a continuous period of at least six (6) months immediately prior to the date such person is qualified by the City to run for councilmember; and (ii) continues to reside in such ward during that person's period of service. In the event that a councilmember no longer resides in the ward he or she was elected to represent, such councilmember shall immediately resign from the council. The terms of councilmembers shall be staggered as in effect on the date of this charter.

SECTION 2.12.

Vacancy; filling of vacancies

(a) The office of mayor or councilmember shall become vacant upon the incumbent's death, resignation, forfeiture of office, removal from office in any manner authorized by this charter, or occurrence of any event specified by the Constitution of the State of Georgia, Title 45 of the Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter be enacted.

(b) A vacancy in the office of mayor or councilmember shall be filled for the remainder of the unexpired term, if any, by appointment by the mayor and council or those members remaining if less than 12 months remains in the unexpired term. If such vacancy occurs 12 months or more

prior to the expiration of the term of that office, it shall be filled for the remainder of the unexpired term by a special election, as provided for in Section 5.13 of this charter and in accordance with Titles 21 and 45 of the Official Code of Georgia Annotated, or other such laws as are or may hereafter be enacted.

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

SECTION 2.13.

Compensation and expenses.

The mayor and councilmembers shall receive compensation and expenses for their services as provided by ordinance. The compensation in effect as of the date of enactment of this charter shall continue until modified as provided herein.

SECTION 2.14.

Conflicts of Interest; Holding Other Offices.

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

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

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

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

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

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

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

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

(c) *Disclosure.* Any elected official, appointed officer, or employee who shall have any financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city shall disclose such interest to the city council. The mayor or any councilmember who has a financial interest in any matter pending before the city council shall disclose such interest and such disclosure shall be entered on the records of the city council, and that official 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 financial interest, directly or indirectly, in any contract or matter pending before or within such entity shall disclose such interest to the governing body of such agency or entity.

(d) *Use of Public Property.* 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 or profit but shall use such property only in their capacity as an officer or employee of the city.

(e) *Contracts Voidable and Rescindable.* Any violation of this section which occurs with the knowledge, express or implied, of a party to a contract or sale shall render said contract or sale voidable at the option of the city council.

(f) *Ineligibility of Elected Official.* Except where authorized by law, neither the mayor nor any councilmember shall hold any other elective or appointive office in the city or otherwise be employed by said government or any agency thereof during the term for which that official was elected.

(g) *Political Activities of Certain Officers and Employees.* No appointive officer of the city shall continue in such employment upon qualifying as a candidate for nomination or election to any public office. No employee of the city shall continue in such employment upon qualifying for or election to any public office in this city or any other public office which is inconsistent, incompatible or in conflict with the duties of the city employee. Such determination shall be made by the mayor and council either immediately upon election or at any time such conflict may arise.

(h) *Penalties for Violation.*

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

(2) Any officer or employee of the city who shall forfeit an office or position as

described in paragraph (1) above, shall be ineligible for appointment or election to or employment in a position in the city government for a period of three years thereafter.

SECTION 2.15.

Inquiries and investigations.

Following the adoption of an authorizing resolution, the mayor and council may make inquiries and investigations into the affairs of the city and the 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 mayor and council shall be punished as provided by ordinance.

SECTION 2.16.

General Power and Authority of the Mayor and Council.

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

(b) In addition to all other powers conferred upon it by law, the mayor and 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 Dalton and may enforce such ordinances by imposing penalties for violation thereof.

(c) In addition to all other powers conferred upon it by law, the mayor and council shall have the power and authority to appoint, remove, demote, and discharge the head of any department of the city at any time in the mayor and council's discretion, except as otherwise provided by this charter, ordinance, or by law.

SECTION 2.17.

Eminent Domain.

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

SECTION 2.18.

Organizational meetings.

The mayor and council shall hold an organizational meeting on the first regularly scheduled meeting in January following the November election in which a councilmember seat or the mayoral position is on the ballot. The meeting shall be called to order by the mayor or the city clerk and the oath of office shall be administered to the newly elected members by a judicial officer authorized to administer oaths and shall, to the extent that it comports with federal and state law, be as follows:

“I do solemnly (swear)(affirm) that I will faithfully perform the duties of (title of office) of this city and that I will support and defend the charter thereof as well as the constitution and laws of the State of Georgia and of the United States of America. 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 Dalton 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 interest of the City of Dalton to the best of my ability without fear, favor, affection, reward, or expectation thereof.”

SECTION 2.19.

Regular and special meetings.

- (a) The mayor and council shall hold regular meetings at such times and places as shall be prescribed by ordinance. All meetings shall be held in accordance with Code Section 50-14-1 of the Official Code of Georgia Annotated.
- (b) Special meetings of the mayor and council may be held on call of the mayor or two councilmembers. Notice of such special meetings shall be served on all other members personally, by telephone personally, or by electronic transmission, at least 24 hours in advance of the meeting. Such notice shall not be required if the mayor and all councilmembers are present when the special meeting is called. Such notice of any special meeting may be waived by a councilmember and the mayor in writing before or after such a meeting, and attendance at the meeting shall also constitute a waiver of notice on any business transacted in such councilmember's or mayor's presence. Only the business stated in the call may be transacted at the special meeting.
- (c) All meetings of the mayor and council shall be public to the extent required by law, and notice to the public of special meetings shall be made as fully as is reasonably possible as provided by Code Section 50-14-1 of the Official Code of Georgia Annotated or other such applicable laws as are or may hereafter be enacted.

SECTION 2.20.

Rules of procedure.

- (a) The mayor and council shall adopt its rules of procedure and order of business consistent with the provisions of this charter and shall provide for keeping minutes of its proceedings, which

shall be a public record.

(b) Except for the finance committee, which is comprised of the mayor and all councilmembers, all committees composed entirely of members of the mayor and council shall be appointed by the mayor and shall serve at the pleasure of the mayor.

SECTION 2.21.

Quorum: voting.

(a) Except as otherwise provided herein, three (3) councilmembers shall constitute a quorum and shall be authorized to transact the business of the mayor and council. In the event only two (2) councilmembers are eligible to vote on a matter due to the absence, abstention, or recusal of two (2) councilmembers, then the mayor and two (2) councilmembers shall constitute a quorum and shall be authorized to transact the business of the mayor and council. The mayor pro tempore acting in the absence of the mayor shall be counted as a councilmember for the purposes of determining a quorum and voting. Except as otherwise provided in this charter, the affirmative vote of three (3) councilmembers shall be required for the adoption of any ordinance, resolution, or motion. In the event the quorum is comprised of the mayor and two (2) councilmembers, then the affirmative vote of the mayor and two (2) councilmembers shall be required for the adoption of any ordinance, resolution, or motion. In the case of a tie vote among the four (4) councilmembers, the vote of two (2) councilmembers and the mayor shall be required for the adoption of any ordinance, resolution, or motion. Voting on the adoption of ordinances, resolutions, or motions shall be by voice vote and the vote shall be recorded in the minutes of the proceedings, but any member of the mayor and council shall have the right to request a roll-call vote and such vote shall be recorded in the minutes of the proceedings. An abstention or recusal shall not be counted as a vote for or against and will not defeat a quorum.

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

SECTION 2.22.

Ordinance form; procedures.

(a) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain a subject which is not expressed in its title. The enacting clause shall be “BE IT ORDAINED by the Mayor and Council of the City of Dalton and by authority of the same, IT IS HEREBY ORDAINED” and every ordinance shall so begin.

(b) An ordinance may be introduced by any councilmember or the mayor and be read at a regular or special meeting of the mayor and council. Ordinances shall be considered and adopted or rejected by the mayor and council in accordance with the rules which it shall establish; provided, however, that an ordinance shall not be adopted the same day it is introduced, except for emergency

ordinances provided for in Section 2.24 of this charter. Upon introduction of any ordinance, the clerk shall as soon as possible distribute a copy to the mayor and to each councilmember and shall file a reasonable number of copies in the office of the clerk and at such other public places as the city council may designate.

SECTION 2.23.

Action requiring an ordinance.

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

SECTION 2.24.

Emergencies.

(a) To meet a public emergency affecting life, health, property, or public peace, the mayor and council may convene on the call of the mayor or two councilmembers and promptly adopt an emergency ordinance, but such ordinance may not levy taxes; grant, renew, or extend a franchise; or authorize the borrowing of money except for loans to be repaid within 30 days. An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed 30 days following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(b) Such meetings shall be open to the public to the extent required by law, and notice to the public of emergency meetings shall be made as fully as is reasonably possible in accordance with Code Section 50-14-1 of the Official Code of Georgia Annotated or such other applicable laws as are or may hereafter be enacted.

SECTION 2.25.

Codes of technical regulations.

(a) The mayor and council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such adopting ordinance shall be as prescribed for ordinances generally except that: (1) the requirements of Section 2.22(b) for distribution and filing of copies of the ordinance shall be construed to include copies of any code of technical regulations, as well as the adopting ordinance; and (2) a copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to Section 2.26.

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

SECTION 2.26.

Signing; authenticating; recording; codification; printing.

- (a) The city clerk shall authenticate all ordinances adopted by the mayor and council by his or her signature and record in full in a properly indexed book kept for that purpose.
- (b) The mayor and council shall provide for the preparation of a general codification of all the ordinances of the city having the force and effect of law. The general codification shall be adopted by the mayor and council by ordinance and shall be published, together with all amendments thereto and such codes of technical regulations and other rules and regulations as the mayor and council may specify. This codification shall be known and cited officially as “The Code of the City of Dalton, Georgia.” Copies of the code shall be furnished to all officers, departments, and agencies of the city, and made available for purchase by the public at a reasonable price as fixed by the mayor and council.
- (c) The mayor and council shall cause each ordinance and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances and charter amendments shall be made available for purchase by the public at reasonable prices to be fixed by the mayor and council. Following publication of the first code under this charter and at all times thereafter, the ordinances and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for incorporation therein. The mayor and council shall make such further arrangements as deemed desirable with reproduction and distribution of any current changes in or additions to codes of technical regulations and other rules and regulations included in the code.

SECTION 2.27.

City Administrator; Appointment; Qualifications; Compensation.

The mayor and council shall appoint a city administrator for an indefinite term and shall fix the city administrator's compensation. The city administrator shall be appointed solely on the basis of executive and administrative qualifications.

SECTION 2.28.

Removal of City Administrator.

The city administrator is employed at will and may be summarily removed from office at any time by the mayor and council at a meeting held in accordance with this charter. In this matter the mayor shall be entitled to cast a vote without regard to a tie vote among the councilmembers.

SECTION 2.29.

Powers and Duties of the City Administrator.

The city administrator shall be the chief executive and administrative officer of the city. The city administrator shall be responsible to the city council for the administration of all city affairs placed

in the city administrator's charge by or under this charter. As the chief executive and administrative officer, the city administrator shall:

- (1) Supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law.
- (2) To act as budget officer for the City of Dalton pursuant to the powers set forth in O.C.G.A. § 36-81-1 et seq. To further set the budgetary calendar to meet the requirements of law and prescribe the form for presentation of any budgetary request to the City of Dalton. Budget requests shall be initially filed with the city administrator. The city administrator shall annually, or more often as may be required by the mayor and council, prepare and propose a balanced budget for the City of Dalton.
- (3) Care and be responsible for all buildings and all real and personal property of the city.
- (4) In the event there is not an acting department head, appoint, suspend, or remove all city employees in such department, except as otherwise provided by law or this charter.
- (5) Advise the mayor and council on the hiring or termination of department heads over whom the city administrator has management and supervision responsibility.
- (6) Attend meetings of the mayor and council and its committees and assist all of the standing or special committees of the city and make available to them such information as may be needed.
- (7) Advise and assist the mayor and councilmembers in the performance of their duties.
- (8) Review and advise the mayor and council regarding the activities of the various departments, bureaus, boards, commissions, authorities, of the city under the direct authority of the mayor and council.
- (9) Serve ex-officio as a nonvoting member of all boards, commissions, authorities, or agencies of the city under the direct authority of the mayor and council, except for those boards, commissions, authorities, or agencies created under local act or for which authority is provided by general statute of the General Assembly of Georgia.
- (10) Perform all other duties as may be lawfully delegated to him or her by the mayor and council.

SECTION 2.30.

Mayor and Council Interference with Administration.

Except as otherwise provided in this charter and except for the purpose of inquiries and

investigations under Section 2.15, the mayor and council or its members shall provide orders or direction to city officers and employees who are subject to the direction and supervision of the city administrator through the city administrator, and neither the mayor and council nor its members shall give orders to any such officer or employee, either publicly or privately.

SECTION 2.31.

Powers and Duties of Mayor.

The mayor shall:

- (a) preside at all meetings of the city council;
- (b) present first draft of agenda at all meetings of the city council;
- (c) be the head of the city for the purpose of service of process and for ceremonial purposes, and be the official spokesperson for the city and the chief advocate of policy;
- (d) be the deciding vote on matters before the city council in the event of a tied vote of the councilmembers;
- (e) have power to administer oaths and to take affidavits; and
- (f) sign as a matter of course on behalf of the city all written and approved contracts, ordinances and other instruments executed by the city which by law are required to be in writing.

SECTION 2.32.

Selection of mayor pro tempore.

By a majority vote of the mayor and council, a councilmember shall be elected to serve as mayor pro tempore who shall serve at the pleasure of the mayor and council for same term as the mayor. The mayor pro tempore shall continue to vote and otherwise participate as a councilmember.

SECTION 2.33.

Mayor pro tempore.

During the absence or physical or mental disability of the mayor for any cause, the mayor pro tempore, or in the mayor pro tempore's absence or disability for any reason, any one of the councilmembers chosen by a majority vote of councilmembers, shall be clothed with all the rights and privileges of the mayor and shall perform the duties of the office of the mayor so long as such absence or disability shall continue. Any such absence or disability shall be declared by majority vote of all councilmembers. The mayor pro tempore or selected councilmember shall sign all contracts and ordinances in which the mayor has a disqualifying financial interest as provided in Section 2.14 of this charter.

ARTICLE III

ADMINISTRATIVE AFFAIRS

SECTION 3.10.

Chief Financial Officer

- (a) The office of chief financial officer is created and established for the city with the powers, duties, method of appointment, qualifications, term of office, and compensation as hereinafter provided.
- (b) The mayor and council by a majority vote shall appoint a chief financial officer for an indefinite term by motion recorded in the minutes of the proceedings of the mayor and council. In this matter the mayor may cast a vote without regard to a tie vote among the councilmembers.
- (c) The compensation of the chief financial officer shall be fixed by the city administrator.
- (d) The chief financial officer shall be the director of the department of finance and shall report to the city administrator.
- (e) The chief financial officer shall perform such financial duties as may be assigned by the city administrator or as may be required by law.
- (f) The chief financial officer may be suspended and or removed by a majority vote of the mayor and council. In this matter the mayor may cast a vote without regard to a tie vote among the councilmembers.

SECTION 3.11.

City clerk.

- (a) The mayor and council shall appoint a city clerk for an indefinite term by motion recorded in the minutes of the proceedings of the mayor and council who shall not be an elected officer or the head of any other department of the city. The city clerk shall report to the city administrator. The city clerk may be suspended and or removed by a majority vote of the mayor and council. In this matter the mayor may cast a vote without regard to a tie vote among the councilmembers.
- (b) The city clerk shall be the custodian of the official city seal and city records; attend all meetings of the mayor and council and keep accurate minutes of all its proceedings; maintain all oaths taken by officers and employees of the city; supervise and keep a record of all elections; maintain a record of all appointments to office; be the custodian of all city contracts, deeds to city real estate and leases of city property; authenticate and certify city documents; and undertake such additional tasks as may be assigned by the city administrator from time to time.
- (c) The compensation of the city clerk shall be fixed by the city administrator.

SECTION 3.12

City auditor.

(a) The mayor and council shall appoint a city auditor for an indefinite term who shall be a certified public accountant or a certified public accountant firm. The city auditor shall be responsible for providing an annual independent audit of all city accounts, funds, and financial transactions in accordance with generally accepted auditing principles.

(b) The city auditor is not a public official of the city and does not take an oath of office. The city auditor shall at all times be an independent contractor.

(c) The city auditor shall be removed at any time upon majority vote of the mayor and council. In this matter the mayor may cast a vote without regard to a tie vote among the councilmembers.

SECTION 3.13.

City attorney.

The mayor and council shall appoint a city attorney who has been recommended by the city administrator for an indefinite term who shall be a member in good standing of the State Bar of Georgia and shall have practiced law for at least five years at the time of his or her appointment, together with such assistant city attorneys as may be authorized, and shall provide for the payment of such attorney or attorneys for services rendered to the city. The city attorney may be removed by the majority vote of the mayor and council. In this matter the mayor may cast a vote without regard to a tie vote among the councilmembers. The city attorney shall be responsible for providing for the representation and defense of the city in all litigation in which the city is a party; may be the prosecuting attorney in the municipal court; shall attend the meetings of the mayor and council and its commissions and authorities; shall advise the mayor, councilmembers and 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 the position as city attorney. The city attorney shall review all contracts of the city but shall not have the power to bind the city.

SECTION 3.14

Administrative and service departments.

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

(b) Except as otherwise provided by this charter or by law, the directors of departments and other appointed officers of the city shall be appointed solely on the basis of their respective administrative and professional qualifications.

(c) All appointive officers and directors of departments shall receive such compensation as prescribed by the city administrator.

(d) There shall be a director of each department or agency who shall be its principal officer. Each director shall, subject to the direction and supervision of the city administrator, be responsible for the administration and direction of the affairs and operations of that director's department or

agency.

- (e) The director of each department or agency may be removed by the majority vote of the mayor and council. In this matter the mayor may cast a vote without regard to a tie vote among the councilmembers.

SECTION 3.15.

Boards, commissions, and authorities.

(a) *General Authority.*

(1) The mayor and council shall create by ordinance such boards, commissions, and authorities to fulfill any investigative, advisory, quasi-judicial, or quasi-legislative function as the mayor and council deems necessary and shall by ordinance establish the composition, period of existence, duties, and powers thereof.

(2) All members of boards, commissions, and authorities of the city shall be appointed by the mayor and council for such terms of office and in such manner as shall be provided by ordinance, except where other appointing authority, terms of office, or manner of appointment is prescribed by this charter or by law. Except as otherwise prescribed by this charter or by law, members of boards, commissions, and authorities of the city shall serve at will and may be removed by the majority vote of the mayor and council. In this matter the mayor may cast a vote without regard to a tie vote among the councilmembers.

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

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

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

(6) No member of a board, commission, or authority shall assume office until that person has taken an oath obligating himself or herself to faithfully and impartially perform the duties of that member's office, such oath to be prescribed by ordinance or resolution.

(7) Except as otherwise provided by this charter or by law, each board, commission, or authority of the city shall elect one of its members as chair and one member as vice chair, 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 law, as it deems appropriate and necessary for the fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and regulations shall be filed with

the city clerk.

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

SECTION 3.16.

Personnel policies.

(a) All employees of the city shall serve at will and may be terminated at any time unless otherwise provided by this charter, ordinance, or by law.

(b) Subject to subsection (a) of this Section 3.16, the rights, status, salaries, wages, rank, and conditions of employment of all employees of the city shall be and remain as they existed at the time this charter becomes effective and shall so remain until and unless changed or terminated under some provision of this charter or by ordinance or resolution of the mayor and council.

(c) No appointed officer and no employee of the city shall continue in such employment upon qualifying as a candidate for nomination or election to any public office.

SECTION 3.17.

Public Works Committee.

The City of Dalton shall have a public works committee comprised of the city administrator and two (2) members of the mayor and council appointed by the mayor and serving at the pleasure of the mayor. The public works committee shall provide direction to, and have oversight of, infrastructure projects and the public works department of the City of Dalton.

ARTICLE IV

JUDICIAL BRANCH

SECTION 4.10.

Creation; name.

There shall be a court to be known as the Municipal Court of the City of Dalton, Georgia.

SECTION 4.11.

Chief judge; associate judge; prosecuting attorney.

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

(b) No person shall be qualified or eligible to serve as a judge on the municipal court unless that person shall have attained the age of 21 years, shall be a member in good standing of the State Bar of Georgia, and shall possess all qualifications required by law. All judges shall be appointed

by the mayor and council.

- (c) Compensation of the judges shall be fixed by the mayor and council.
- (d) Judges shall serve at will and may be removed from office at any time by the mayor and council unless otherwise provided by ordinance.
- (e) Before assuming office, each judge shall take the oath provided in Section 2.18 of this charter. The oath shall be entered upon the minutes of the proceedings of the mayor and council.
- (f) The mayor and council may employ a qualified attorney to prosecute violations of city ordinances and other offenses over which the municipal court has jurisdiction upon such terms as the mayor and council may determine.
- (g) The municipal court shall have a court administrator appointed by the mayor and council.

SECTION 4.12.

Convening.

The municipal court shall be convened at regular intervals as determined by the court administrator.

SECTION 4.13.

Jurisdiction; powers.

- (a) The municipal court shall try and punish violations of this charter, all city ordinances, and such other violations as provided by law.
- (b) The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$200.00 or ten days in jail.
- (c) The municipal court may fix punishment for offenses within its jurisdiction not exceeding a fine of \$1,000.00 or imprisonment for 180 days, or both such fine and imprisonment, or may fix punishment by fine, imprisonment, or alternative sentencing, as now or hereafter provided by law.
- (d) The city administrator shall have authority to establish a schedule of fees to defray the cost of operation and shall be entitled to reimbursement of the cost of meals, transportation, and caretaking of prisoners bound over to superior courts for violations of state law.
- (e) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as surety for the appearance of persons charged with violations. Whenever any person shall give bail for that person's appearance and shall fail to appear at the time fixed for trial, the bond shall be forfeited, and the judge presiding at such time shall issue an execution thereon by serving the defendant and the defendant's 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 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 or the property so deposited shall have a lien against it for the value forfeited which lien shall be enforceable in the same manner and to the same extent as a lien for city property taxes.

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

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

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

SECTION 4.14.

Appeal.

Any person aggrieved by a decision of the municipal court shall have the right to appeal as provided by law.

SECTION 4.15.

Rules for court.

With the approval of the mayor and council, the court administrator 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; provided, however, that the mayor and council may adopt in part or in total the rules and regulations applicable to municipal courts. The rules and regulations made or adopted shall be filed with the city clerk, shall be available for public inspection, and, upon request, a copy shall be furnished to all defendants in municipal court proceedings at least 48 hours prior to said proceedings.

ARTICLE V

ELECTIONS AND REMOVAL

SECTION 5.10.

Applicability of general law.

All primaries and elections shall be held and conducted in accordance with the Georgia Election Code (Title 21, Chapter 2 of the Official Code of Georgia Annotated) as now or hereafter amended.

SECTION 5.11.

Nonpartisan elections.

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

SECTION 5.12.

Election by majority vote.

The candidates for mayor and councilmember who receive a majority of the votes cast in the applicable election shall be elected to a term of office. In the event no candidate receives a majority of the votes cast in said election, a run-off election shall be held between the two candidates receiving the highest number of votes. Such run-off shall be held at the time specified by state election law, unless such run-off date is postponed by court order.

SECTION 5.13.

Special elections.

The mayor and council shall have the power to call for a special election as provided by this charter or the laws of the State of Georgia. Any special election shall be held and conducted in accordance with the "Georgia Election Code," Chapter 2 of Title 21 of the Official Code of Georgia Annotated, as now or hereafter amended.

SECTION 5.14.

Other provisions.

Except as otherwise provided by this charter, the mayor and council shall, by ordinance, prescribe such rules and regulations it deems appropriate to fulfill any options and duties under the Georgia Election Code.

SECTION 5.15.

Removal of officers.

(a) The mayor or a councilmember may be removed from office for any one or more of the causes provided in Title 45 of the Official Code of Georgia Annotated or such other applicable laws as are or may hereafter be enacted.

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

(1) A decision of an impartial panel following a hearing on action taken by the city council. In the event an elected officer is sought to be removed by the action of the city council, such officer shall be entitled to a written notice specifying the ground or grounds for removal and to a public hearing which shall be held not less than ten (10) days after the service of such written notice. The city council shall provide by ordinance for the manner

in which such hearings shall be held. Any elected officer sought to be removed from office as herein provided shall have the right of appeal from the decision of the city council to the Superior Court of Whitfield County. Such appeal shall be governed by the same rules as govern appeals to the superior court from the probate court.

(2) An order of the Superior Court of Whitfield County following a hearing on a complaint seeking such removal brought by any resident of the city of Dalton.

SECTION 5.16.

Registration; conduct of elections

The mayor and council is authorized and empowered to designate and contract with the Whitfield County Registrar and Board of Elections to receive voter registration of city electors, qualify candidates, and to conduct city elections.

ARTICLE VI

FINANCE

SECTION 6.10.

Property tax.

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

SECTION 6.11.

Millage rate; due dates; payment methods.

The mayor and council, by ordinance, shall establish a millage rate for the city property tax, a due date, and the time period within which these taxes must be paid. The mayor and council, by ordinance, may provide for the payment of these taxes by installments or in one lump sum, as well as authorize the voluntary payment of taxes prior to the time when due. The mayor and council may contract with the Whitfield County Tax Commissioner to collect taxes.

SECTION 6.12.

Occupation and business taxes.

The mayor and council by ordinance shall have the power to levy such occupation or business taxes as are not denied by law. The mayor and council may classify businesses, occupations, or professions for the purpose of such taxation in any way which may be lawful and may compel the payment of such taxes as provided in Section 6.18 of this charter.

SECTION 6.13.

Administration fees; regulatory fees; permits.

The mayor and council by ordinance shall have the power to require businesses or practitioners doing business within the city to obtain a permit for such activity from the city and pay a reasonable administration fee or regulatory fee for such permit as provided by general law. Such fees shall reflect the total cost to the city of regulating the activity, and, if unpaid, shall be collected as provided in Section 6.18 of this charter.

SECTION 6.14.

Franchises

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

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

SECTION 6.15.

Service charges.

The mayor and council by ordinance shall have the power to assess and collect fees, charges, and tolls for sewers, stormwater, solid waste collection, sanitary and health services, or any other services provided or made available within and without the corporate limits of the city for the total cost to the city of providing or making available such services. If unpaid, such charges shall be collected as provided in Section 6.18 of this charter.

SECTION 6.16.

Special assessments.

The mayor and council by ordinance shall have the power to assess and collect the cost of constructing, reconstructing, widening, or improving any public way, street, sidewalk, curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property owners under such terms and conditions as are reasonable. If unpaid, such charges shall be collected as provided

in Section 6.18 of this charter.

SECTION 6.17.

Construction; other taxes and fees.

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

SECTION 6.18.

Collection of delinquent taxes and fees.

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

SECTION 6.19.

General obligation bonds.

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

SECTION 6.20.

Revenue bonds.

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

SECTION 6.21.

Short-term loans.

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

SECTION 6.22.

Lease-purchase contracts.

The city may enter into multiyear lease, purchase, or lease-purchase contracts for the acquisition of goods, materials, real and personal property, services, and supplies provided the contract

terminates without further obligation on the part of the city at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed. Contracts must be executed in accordance with the requirements of Code Section 36-60-13 of the Official Code of Georgia Annotated, or other such applicable laws as are or may hereafter be enacted.

SECTION 6.23.

Fiscal year.

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

SECTION 6.24.

Preparation of budgets.

(a) The mayor and council shall provide a resolution on 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 plans.

(b) Budgets shall be prepared for the General Fund, Debt Service Fund, Capital Projects Fund, Special Revenue Fund(s) and any other fund deemed as necessary by the mayor and council or mandated by state law.

SECTION 6.25.

Submission of Operating Budget to Mayor and Council.

On or before a date fixed by the city council but not later than 30 days prior to the beginning of each fiscal year, the city administrator shall submit to the mayor and council a proposed operating budget for the ensuing fiscal year. The budget shall be accompanied by a message from the city administrator containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget, and such other pertinent comments and information. The operating budget and the capital budget hereinafter provided for, the budget message, and all supporting documents shall be filed in the office of the city clerk and shall be open to public inspection.

SECTION 6.26.

Action by mayor and council on budget.

(a) The mayor and council may amend the operating budget and the capital budget proposed by the city administrator, except that the budget as finally amended and adopted must provide for all expenditures required by state 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.

(b) The mayor and council by voice vote shall adopt the final operating budget and the capital budget for the ensuing fiscal year not later than the first regularly scheduled meeting of each year. If the mayor and council fails to adopt the budget by this date, the amounts appropriated for operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly until such time as the mayor and council adopts a budget for the ensuing fiscal year. Adoption of the budgets shall take the form of an appropriations ordinance setting out the estimated revenues in detail by sources and making appropriations according to fund and by organizational unit, purpose, or activity as set out in the budget preparation resolution adopted pursuant to Section 6.24 of this charter.

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

SECTION 6.27.

Tax levies.

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

SECTION 6.28.

Changes in appropriations.

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

SECTION 6.29.

Capital Budget.

(a) On or before the date fixed by the mayor and council, the city administrator shall submit to the mayor and council a proposed capital improvements plan with a recommended capital budget containing the means of financing the improvements proposed for the ensuing fiscal year. The mayor and council shall have power to accept, with or without amendments, or reject the proposed plan and proposed budget. The mayor and council shall not authorize an expenditure for the construction of any building, structure, work or improvement, unless the appropriations for such project are included in the capital budget, except to meet a public emergency as provided in Section 2.24.

(b) The mayor and council shall adopt by ordinance the final capital budget for the ensuing

fiscal year. The city administrator may submit amendments to the capital budget to the Mayor and Council at any time during the fiscal year, accompanied by recommendations. Any such amendments to the capital budget shall become effective only upon adoption by ordinance.

SECTION 6.30.

Unexpended appropriations and capital budgets.

All unexpended appropriations and capital budgets shall lapse at the fiscal year-end without any action of the mayor and council.

SECTION 6.31.

Independent audit.

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

SECTION 6.32.

Contracting procedures.

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

- (a) It is in writing;
- (b) It is drawn by or submitted to and reviewed by the city attorney;
- (c) It is made or authorized by the mayor and council and such approval is entered in the mayor and council minutes of the proceedings pursuant to Section 2.20 of this charter; and
- (d) It is signed by the mayor or a department head specifically authorized by the mayor and council by ordinance or resolution.

SECTION 6.33.

Purchasing.

The mayor and council shall by resolution prescribe procedures for a system of purchasing for the city.

SECTION 6.34.

Sale and lease of city property.

- (a) Except as otherwise provided in this charter, the mayor and council may sell and convey

or lease any real or personal property owned or held by the city for governmental or other purposes as now or hereafter provided by law.

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

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

SECTION 6.35.

Insurance.

The city shall maintain sufficient casualty and liability insurance coverage on all property owned and/or operated by city personnel to adequately indemnify the city on claims of loss by injured or aggrieved parties. The amounts of insurance coverage shall be set from time to time by the city council in the form of a resolution as the need arises.

ARTICLE VII

PUBLIC SCHOOLS

SECTION 7.1.

Board of Education.

The board of education of the public schools of the City of Dalton is provided for in O.C.G.A. Title 20, Ch. 2, Art. 3.

ARTICLE VIII

BOARD OF WATER, LIGHT AND SINKING FUND COMMISSIONERS

SECTION 8.10.

Organization of Board.

- (a) At the first regular meeting in January of each year the mayor and council of the City of Dalton shall be authorized to elect a Board of Water, Light and Sinking Fund Commissioners, consisting of five (5) members.
- (b) The Board of Water, Light and Sinking Fund Commissioners shall consist of five commissioners appointed by the mayor and council who shall serve five-year terms. The terms shall be staggered as in effect on the date of this charter. Any vacancy in a term of a commissioner shall be filled for the expiration of that term by appointment of the mayor and city council. Upon the expiration of the term of service of any commissioner so appointed, the mayor and city council shall appoint a commissioner for a full term. Existing commissioners as of the date of this charter shall serve out the balance of their terms.
- (c) The authority, powers, and duties of said commissioners shall be regulated by such ordinances as the mayor and council may prescribe, and as otherwise set forth in this Article VIII.

SECTION 8.11.

General Scope of Authority, Powers, and Duties as to Public Utilities.

- (a) The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton (doing business as “Dalton Utilities”) shall have entire control of all public utilities of the City of Dalton, and such control shall extend into the newly annexed area of said city. Said board shall have authority of extending the services of said utilities beyond the city limits of the City of Dalton when in their judgment it is to the best interest of the city to do so.
- (b) The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton (doing business as “Dalton Utilities”) shall have the power to control and operate any and all public utilities that the convenience and necessity of the citizens of the City of Dalton require, and have the right and power to operate any such public utilities within the City of Dalton when the convenience and necessity of the citizens of the city are affected.
- (c) The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton (doing business as “Dalton Utilities”) shall have entire control of the public utilities of the City of Dalton and as a part of said control, the board shall have authority to make all contracts necessary for the operation of said utilities; to buy all supplies and material needed, and to make all necessary improvements and extensions, to employ all help necessary in the operation of said utilities and all utility sectors thereof; to make all rates, rules and regulations for furnishing utility services to the inhabitants of said city and to enforce the same; and to deal in every way with said utilities as a separate and distinct part of the city government. Said board shall fix rates for utility services sufficiently high so as to bring in sufficient revenue to maintain said public utilities and to provide for needed repairs, extensions and improvements. Said board shall collect all moneys due to said utilities and shall pay all debts of said public utilities. No contract made by said board shall bind said city but shall be binding upon said board which shall operate as a separate and distinct part of the City of Dalton with the authority set forth in this Section, and pursuant to law and ordinances.

No moneys shall be appropriated by the mayor and council of the City of Dalton to the operation and improvement of said utilities, except that the board shall collect and receive the principal and interest on the public debt as now provided by law. As used in this Section, the term “utility services” shall mean any and all services provided by the board through various utility sectors as set forth in Section 8.12, and otherwise as authorized by law or ordinance, and is not intended to limit the board from providing utility services in the future that are not set forth in Section 8.12 and that may be later authorized by law or ordinance.

SECTION 8.12.

Utility Sectors.

(a) *Public Sewer System.* The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton shall have power and authority to control and operate the public sewer system in said city in such way and manner as the board deems appropriate, and for such purpose they may employ competent engineers and superintendents, at such times and at such salaries as may be agreed upon by the board. The board shall have entire control of the public sewer system of the City of Dalton, and such control shall extend into all newly annexed areas of said city. Said board shall have the power and authority to make all contracts necessary for the operation of said public sewer system; to buy all supplies and materials needed, and to make all necessary improvements and extensions, to employ all clerical and other help necessary in the operation of said system; to make rates, rules and regulations for the furnishing of sewer service to residential, commercial and industrial users of said system, and to enforce the same; and the power to control and operate such system as the convenience and necessity of the citizens of the City of Dalton shall require. Said board shall make no contracts for the price of using the public sewer system for a longer period than two (2) years, and at the expiration of any term or lease the price paid for the use thereof shall be adjusted according to the regulations then established.

(b) *Communications and Information Services and Facilities.* The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton shall have the authority to construct, acquire, control, operate and provide as public utilities (i) communications services and facilities, and (ii) information services and facilities; of all kinds, without limitation, over or through all media, including wireline and wireless, whether such services and facilities are now known or are developed in the future, within or without the City of Dalton and within or without Whitfield County, Georgia. Notwithstanding the foregoing, the specification of any such services and facilities as public utilities is not intended to (i) confer any additional power or be in any way in derogation of the power and authority of the Georgia Public Service Commission or any other regulatory body with respect to any such services and facilities, or (ii) subject any such services or facilities to common carrier or public utility regulation. The board shall have power and authority to control and operate the communications services and facilities and the information services and facilities in said city in such way and manner as the board deems appropriate, and for such purpose they may employ competent engineers and superintendents, at such times and at such salaries as may be agreed upon by the board. The board shall have entire control of the communications services and facilities and the information services and facilities of the City of Dalton, wherever located, and such control shall extend into all newly annexed areas of said city. Said board shall have the power and authority to make all contracts necessary for the operation of said communications services and facilities and the information services and facilities; to buy all

supplies and materials needed, and to make all necessary improvements and extensions, to employ all clerical and other help necessary in the operation of said facilities; to make rates, rules and regulations for the furnishing of communications services and facilities and the information services and facilities to residential and industrial users of said facilities, and to enforce the same; and the power to control and operate such communications services and facilities and the information services and facilities as the convenience and necessity of the citizens of the City of Dalton shall require.

(c) *Water System.* The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton shall have power and authority to control and operate the water system in said city in such way and manner as the board deems appropriate, and for such purpose they may employ competent engineers and superintendents, at such times and at such salaries as may be agreed upon by the board. The board shall have entire control of the public water system of the City of Dalton, and such control shall extend into all newly annexed areas of said city. Said board shall have the power and authority to make all contracts necessary for the operation of said public water system; to buy all supplies and materials needed, and to make all necessary improvements and extensions, to employ all clerical and other help necessary in the operation of said system; to make rates, rules and regulations for the furnishing of water service to residential, commercial, and industrial users of said system, and to enforce the same; and the power to control and operate such system as the convenience and necessity of the citizens of the City of Dalton shall require. The board shall regulate the distribution and use of the water in all places and for all purposes, where the same may be required, and from time to time shall fix the price thereof, and the time of payment; and they shall erect such number of public hydrants in such places as they may see fit, and direct in what manner and for what purposes the same may be used, all of which they may change at their discretion. Said board shall make no contracts for the price of using water for a longer period than two (2) years, and at the expiration of any term or lease the price paid for the use thereof shall be adjusted according to the regulations then established. Said board shall have full power and authority to require the payment, in advance, for the use or rent of water furnished by the utility in or upon any building, place or premises, and in case prompt payment shall not be made, they may shut off the water from such building, place or premises, and shall not be compelled to supply said building, place or premises with water until such arrears, with accrued interest thereon, shall be fully paid.

(d) *Electric System.* The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton shall have power and authority to control and operate the electrical transmission, distribution, and generation systems in said city in such way and manner as the board deems appropriate, and for such purpose they may employ competent engineers and superintendents, at such times and at such salaries as may be agreed upon by the board. The board shall have entire control of the public electric generation and transmission systems of the City of Dalton, and such control shall extend into all newly annexed areas of said city. Said board shall have the power and authority to make all contracts necessary for the operation of said electric generation, distribution, and transmission systems; to buy all supplies and materials needed, and to make all necessary improvements and extensions, to employ all clerical and other help necessary in the operation of said systems; to make rates, rules and regulations for the furnishing of electric service to residential, commercial, and industrial users of said system, and to enforce the same; and the power to control and operate such system as the convenience and necessity of the citizens of the City of

Dalton shall require. The board may acquire additional sources of supply of electric power within or without the City of Dalton and within or without Whitfield County, Georgia. Said additional sources of supply may include the whole of or any lesser interest in any electric generating or distribution facilities within or without the State of Georgia and the whole of or any lesser interest in any transmission lines running from any additional source of supply to and within the City of Dalton. Any such additional source of supply may include the whole of or any interest in a nuclear generating facility, including any or all nuclear fuel necessary for the operation thereof. Said board shall make no contracts for the price of electricity for a longer period than two (2) years, and at the expiration of any term or lease the price paid for the use thereof shall be adjusted according to the regulations then established. The Board of Water, Light and Sinking Fund Commissioners may enter agreements for the sale of surplus electricity to others if and when there shall be any excess over and above the city's requirements from time to time and may enter all contracts necessary or useful to assure efficient and economical management of any such additional source of supply, including transmission lines.

(e) *Natural Gas System.* The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton shall have power and authority to control and operate the natural gas system in said city in such way and manner as the board deems appropriate, and for such purpose they may employ competent engineers and superintendents, at such times and at such salaries as may be agreed upon by the board. The board shall have entire control of the public natural gas system of the City of Dalton, and such control shall extend into all newly annexed areas of said city. Said board shall have the power and authority to make all contracts necessary for the operation of said natural gas system; to buy all supplies and materials needed, and to make all necessary improvements and extensions, to employ all clerical and other help necessary in the operation of said systems; to make rates, rules and regulations for the furnishing of natural gas service to residential, commercial, and industrial users of said system, and to enforce the same; and the power to control and operate such system as the convenience and necessity of the citizens of the City of Dalton shall require. Said board shall make no contracts for the price of natural gas for a longer period than two (2) years, and at the expiration of any term or lease the price paid for the use thereof shall be adjusted according to the regulations then established. The board may acquire additional sources of supply of natural gas within or without the City of Dalton and within or without Whitfield County, Georgia.

SECTION 8.13.

Chief Executive Officer.

(a) The Board of Water, Light and Sinking Fund Commissioners shall appoint and employ a President and Chief Executive Officer who shall be qualified by training, education, and experience for the overall management of the utility. He/she shall serve at the pleasure of said board, which shall fix salary, and shall have such authority as delegated by said board and as set forth in this Section 8.13.

(b) The President and Chief Executive Officer of the utility shall report to the Board of Water, Light and Sinking Fund Commissioners at its monthly meetings and at special meetings, and shall carry out and execute all policies and directives of said board.

(c) The President and Chief Executive Officer of the utility shall, in consultation with the board, determine the number of employees necessary for the operation of the utility, and fix their duties and compensation. The prior consent of the Board of Water, Light and Sinking Fund Commissioners shall be required with respect to expenditures and contracts in excess of certain limits set by said board by resolution from time to time. The President and Chief Executive Officer shall, in consultation with the board, have control of all actual construction and repairs, the immediate management of operation of the utility, and the enforcement and execution of all policies, programs, plans, and decisions made or adopted by the said board. The President and Chief Executive Officer shall maintain permanent records regarding actions taken. The President and Chief Executive Officer shall prepare plans and specifications, take bids, and let contracts, subject to the approval of said board. The President and Chief Executive Officer shall prepare and submit to said board periodic reports on the utility's compliance with local, state and federal laws in the areas of safety, environmental matters, and civil rights. There shall be such other officers, executives and employees of the utility as may be required. The officers, executives and employees shall be appointed and removed by the President and Chief Executive Officer subject to the provisions of applicable local, state and federal laws or binding contracts entered into between employees and the Board of Water, Light and Sinking Fund Commissioners. The President and Chief Executive Officer shall have such further power, duties and responsibilities as may be assigned to him by said board from time to time.

(d) The President and Chief Executive Officer shall enter into contracts and shall have the authority to enter into contracts with vendors, customers, lenders, depositories, utilities, engineering firms, consultants and government agencies as may be necessary to effect proper operations of the utility. The prior consent of the Board of Water, Light and Sinking Fund Commissioners shall be required with respect to contracts in excess of certain limits set by the board by resolution from time to time.

(e) All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of the utility shall be signed by the Chief Financial Officer and countersigned by the President and Chief Executive Officer, and may be signed by such other officer or officers, agent or agents, of the utility and in such manner as may from time to time be determined by the President and Chief Executive Officer.

(f) All funds of the utility shall be deposited from time to time to the credit of the utility in such banks, trust companies or other depositories as the President and Chief Executive Officer may select in consultation with the Board of Water, Light and Sinking Fund Commissioners.

SECTION 8.14.

Control Over Public Utilities; Rates, Charges to Comply with Councilmanic Proceedings for
Issuance of Revenue Bonds or Certificates.

As by law and this charter, the Board of Water, Light and Sinking Fund Commissioners of the City of Dalton shall have entire control over all public utilities owned or operated by said city, within or without its limits, with authority to make all contracts necessary to operate such utilities,

to make all improvements and extensions thereto and to fix, impose and collect the rates and charges made for services and commodities supplied by such public utilities; provided however, that such rates and charges shall always be such as to comply with the provisions of any proceedings adopted by the mayor and council of said city authorizing the issuance of revenue bonds or certificates payable from the revenues of such public utilities, or any part thereof.

SECTION 8.15.

Right of Eminent Domain for Public Utilities

The City of Dalton shall have the right and power to condemn lands, rights-of-way for public utilities, easements or right to use property of any kind, whether or not the same is already in use for such purpose, using the method of procedure provided under the general laws of the State of Georgia, and said City of Dalton is hereby vested with the power of eminent domain over private property for such purposes, whenever the Board of Water, Light and Sinking Fund Commissioners shall deem it necessary to the proper management and control of such public utilities that they exercise said power.

SECTION 8.16.

Investment of Sinking Funds.

The Board of Water, Light and Sinking Fund Commissioners shall be authorized to control the sinking funds collected by the city from any and every source, to invest the same in such manner, and in such securities, and upon such terms as the Board of Water, Light and Sinking Fund Commissioners may deem to be to the best interest of said city.

SECTION 8.17.

Disposition of Surplus Funds and Financial Reporting.

If said utility, as determined by the board, has more money on hand than is reasonably necessary for the operation of said utility and for contemplated improvements, the Board of Water, Light and Sinking Fund Commissioners shall pay a sum to the city treasury on an annual basis in an amount that is determined by agreement of the mayor and council and the board. The board, through the President and Chief Executive Officer, shall at the request of the mayor and council of the city, provide to the mayor and council such regular and routine reports agreed upon by the mayor and council and the board as may be necessary for the mayor and council to determine the financial status of the utility.

SECTION 8.18.

Penalties for Diversion of Water, Adulteration, Injury to Supply.

If any person or persons shall willfully or maliciously divert the water, or any portion thereof, from the water system of the city, or shall corrupt or render the same impure, or shall injure or destroy any canal, aqueduct, pipe, hydrant, conduit, machinery or other property used or required for procuring or distributing water, such person or persons, their aiders and abettors, shall forfeit to the mayor and council, to be recovered in an action of trespass, treble the amount of damages, besides cost of said suit, which shall appear on trial to have been sustained; all such acts are

declared to be misdemeanors under the laws of this state, and the parties found guilty thereof may be punished as prescribed in Code Section 50-14-1 of the Official Code of Georgia Annotated.

SECTION 8.19.

Dissolution of the Board and Disposition of Public Utility Assets.

(a) The mayor and council of the City of Dalton shall not (i) disband, dissolve or eliminate the Board of Water, Light and Sinking Fund Commissioners; (ii) remove control of the public utilities or any utility sector thereof from the Board of Water, Light and Sinking Fund Commissioners; or (iii) sell, encumber, or lease a substantial portion of the assets of the public utilities or any utility sector thereof unless approved by a referendum election as provided in this Section 8.19.

(b) A referendum election to authorize any of the actions of the mayor and council set forth in subsection (a) of this Section 8.19, may be initiated upon an ordinance or resolution from the mayor and council being filed with the election superintendent of the city. Such superintendent, upon validation of the ordinance or resolution, shall be required to call and conduct a referendum election as provided for in Chapter 2 of Title 21, the "Georgia Election Code," for the purpose of submitting to the qualified voters of the City of Dalton, the question of whether such action shall be permitted or prohibited. Such ordinance or resolution shall not be amended, supplemented, or returned after its presentation to the appropriate authority.

(c) Upon receipt of an ordinance or resolution, the election superintendent shall set the date of the referendum election on a date authorized under Code Section 21-2-540 of the Official Code of Georgia Annotated. The referendum may be held as a special referendum election or may be held at the time of holding any other primary or election in the City of Dalton.

(d) Notice of the call for the referendum election shall be published by the election superintendent in a newspaper of general circulation in the City of Dalton. The election superintendent shall also cause the date and purpose of the referendum election to be published in a newspaper of general circulation in said city, once a week for two weeks immediately preceding the date of the referendum election.

(e) Only following the expiration of two years after any referendum election is held which results in the disapproval of any action set forth in subsection (a) of this Section 8.19, another referendum election on the same question shall be held if another ordinance or resolution, as provided in subsection (a) of this Section 8.19, is filed with the appropriate election superintendent.

(f) The expense for the election shall be borne by the City of Dalton.

ARTICLE IX

POLICE AND FIRE DEPARTMENTS

SECTION 9.10.

Creation; Composition.

The City of Dalton shall have a police and fire department consisting of a chief of police appointed

by the mayor and council, and such other police officers as may be determined by the chief of police, and a fire chief appointed by the mayor and council, and such other firefighters as may be determined by the fire chief.

SECTION 9.11.

Promulgation of Rules and Regulations.

A public safety commission, which shall be an advisory commission consisting of five (5) members to be appointed by the mayor and council of said city as is hereinafter provided, may from time to time make such rules and regulations as they may think proper for the proper conduct of the affairs of such commission. The Public Safety Commission's purpose is to be an advisory authority to the public safety departments.

SECTION 9.12.

Appointment, Term, Compensation of Public Safety Commission.

The public safety commission shall consist of five commissioners appointed by the mayor and council and each such member shall serve a five-year term. The terms of the commissioners shall be staggered as in effect on the date of this charter. Any vacancy in a term of a member shall be filled for the expiration of that term by appointment of the mayor and council. Upon the expiration of the term of service of any member so appointed, the mayor and council shall appoint a member for a full term.

SECTION 9.13.

Services of City Attorney to Public Safety Commission.

The city attorney of the City of Dalton shall render such services as are required by said public safety commission.

SECTION 9.14.

Oath of Office.

Immediately upon the appointment of the public safety commissioners, police officers, and firefighters, they shall take oath as prescribed in the charter of the City of Dalton.

SECTION 9.15.

Public Safety Commission Seal.

The City of Dalton public safety commission may adopt an official seal for use on its official documents and/or any subpoenas issued by the City of Dalton public safety commission. Upon adoption of said seal the same shall be kept at all times in the custody and control of the duly appointed secretary of the City of Dalton public safety commission.

SECTION 9.16.

Age Requirements for Employment.

No person shall be employed by the City of Dalton for work as a mandate peace officer or mandate peace officer in training or certified firefighter or certified firefighter in training unless such person has reached the age of eighteen (18) years which shall be established by a birth certificate or other proper proof of age acceptable to the public safety commission.

SECTION 9.17.

Authority of Chief of Police to Remove Nuisances.

The chief of police shall also be empowered to remove all nuisances within the corporate limits of the city.

SECTION 9.18.

Chief of Police to Collect, Account for Fines and Fi. Fas.

The city council may in their discretion require the chief of police to collect and account for all fines and fi. fas.

SECTION 9.19.

Duties of Fire Chief.

The duties of the fire chief shall be those duties as are now imposed by the fire chief of the City of Dalton by law, and he or she shall be responsible for other duties and responsibilities as may from time to time be placed upon the fire chief by mayor and council.

SECTION 9.20.

Chiefs Constituted Heads of Departments; Status; Removal.

The chief of police and the chief of the fire department of the City of Dalton, shall be the head of their respective departments, and shall hold office until removed by the mayor and council. Such chiefs shall be appointed by the mayor and council of the City of Dalton. The chief of police and the chief of the fire department may be removed, demoted or discharged at any time by the mayor and council of the City of Dalton.

SECTION 9.21.

Supervision and Control of Police Officers and Firefighters.

All police officers shall be subject to the direction and control of the chief of police, and all firefighters shall be subject to the direction and control of the chief of the fire department, and they shall have the right to discharge or suspend any officer or firefighter for incompetency, insubordination, or misconduct, and report such suspension or discharge to the city administrator.

SECTION 9.22.

Salaries.

The salary of the chief of police and the chief of the fire department and all officers and firefighters, shall be fixed by the City Administrator from time to time.

ARTICLE X
ZONING AND PLANNING

SECTION 10.10.

Adoption of Plan for Districting City, Regulating Districts.

The mayor and council may, in the interest of the public health, safety, order, convenience, comfort, prosperity, or general welfare, adopt by ordinance a plan or plans for the districting or zoning of the city for the purpose of regulating the location of trades, industries, apartment houses, dwellings, or other uses of property, or for the purpose of regulating the height of the buildings or other structures, or for the area or dimensions of the lots, or of the yards used in connection with buildings or other structures, or for the purposes of regulating the alignment of buildings or other structures near street frontages. The zoning regulations may be based upon any one or more of the purposes above described. The city may be divided into such number of districts and zones, and such districts may be of such shape and area, as the mayor and council shall deem best situated to accomplish the purposes of the zoning regulations, including, but not limited to, unified zoning with Whitfield County.

In the determination and establishment of districts and regulations, classifications may be used based on the nature or character of the trade, industry, profession, or other activity conducted or to be conducted upon the premises, the number of persons, families or other group units to reside in or use buildings, the public, quasi-public, or private nature of the use of premises, or upon any other basis or bases relevant to the promotion of the public health, safety, order, morals, conveniences, prosperity, or welfare.

SECTION 10.11.

Classification, Regulation of Residential Districts.

For the reasons above stated, said mayor and council shall have the further right and power, in any districts proposed to be set aside primarily for residence purposes, to further classify the use thereof, and to provide therein the class or classes of residents to be housed therein, and to provide therein such other and similar regulations and restrictions as shall secure the peace and good order of the city and residents thereof.

SECTION 10.12.

Amendment of Zoning Regulations.

The City of Dalton, by and through its mayor and council, may from time to time amend or change the regulations or districts established by the zoning ordinance.

SECTION 10.13.

Vote Required to Adopt, Amend Zoning Regulations.

No such ordinance or amendment thereto, authorized by any of the above sections, shall be adopted except by three-fourths vote of the mayor and council.

ARTICLE XI

AUTHORITIES AND COMMISSIONS

DIVISION 1. DEVELOPMENT AUTHORITY

SECTION 11.10.

City of Dalton Building Authority.

- (a) *Name.* The City of Dalton Building Authority, created pursuant to the previous charter for the City of Dalton first approved February 24, 1874 (1874 Georgia Laws, p. 181), as amended, and is hereby affirmed, which is deemed to be an instrumentality of the State of Georgia and a public corporation and in that name, style and title said body may contract and be contracted with, sue and be sued, plead and be interpleaded, and complain and defend in all courts of law and equity. In the event the name of said authority shall ever become the subject of change, the same may be accomplished by an act of the General Assembly.
- (b) *Purpose.* The said authority was created for the purpose of acquiring, constructing, equipping, maintaining and operating self-liquidating projects embracing buildings and facilities for use by the City of Dalton, Georgia, for its governmental, proprietary and administrative functions and for the use by such other agencies, authorities, departments and political subdivisions of the State of Georgia or the government of the United States as may contract with the authority for the use of such facilities. The City of Dalton, Georgia, has the authority to lease or sell lands, buildings or land and buildings now owned by the City of Dalton, Georgia, to said authority by appropriate resolution of the mayor and council of said city and upon such terms and conditions as said mayor and council shall prescribe; provided, that such sales by the City of Dalton, Georgia, to the authority shall be for cash, and provided that such leases shall not exceed fifty (50) years in duration.
- (c) *Membership.* The authority shall consist of five (5) members as follows: One shall be the mayor of the City of Dalton, Georgia; one shall be a member of the city council of said city to be appointed by said city council; one shall be a banker or other person having knowledge of financial matters, who is a resident of the City of Dalton, to be appointed by the mayor and council of said city; one shall be a businessman, who is a resident of the City of Dalton, to be appointed by the mayor and council of said city; and one shall be a citizen of the City of Dalton, who is a freeholder and qualified registered voter of said city, to be appointed by the mayor and council of said city. The terms of office of the members who are the mayor and city councilmember shall be concurrent with their terms of office as mayor and councilmember. The terms of office of the remaining members of the authority shall be four (4) years and until their successors are appointed and qualified. Successors to such members and to the member who is a city councilmember shall be appointed as the original members were appointed, as provided herein, and any vacancies shall be filled by the appointing authority, as provided herein,

for the unexpired term. Immediately after such appointments, the members of such authority shall enter upon their duties. The authority shall elect one of its members as chairman, and one as vice-chairman, and shall also elect a secretary and treasurer, which secretary and treasurer need not necessarily be a member of the authority. Three (3) members of the authority shall constitute a quorum. No vacancy on the authority shall impair the right of the quorum to exercise all the rights and perform all the duties of the authority. The members of the authority shall receive no compensation for their services but may be reimbursed by the authority for their actual expenses necessarily incurred in the performance of their duties. The authority shall make rules and regulations for its own government. It shall have perpetual existence. In the event the number of the members of the authority or the qualifications of the membership of the authority or the manner in which the members of the authority shall be selected shall ever become the subject of change, the same may be accomplished by an act of the General Assembly.

(d) *Definitions.* As used in this Article XII, the following words and terms shall have the following meanings:

- (1) The word “authority” shall mean the City of Dalton Building Authority.
- (2) The words “the City of Dalton” and “city” shall mean the corporate body created by the General Assembly of Georgia under the name and style of “The City of Dalton.”
- (3) The word “project” shall be deemed to mean and include one or a combination of two (2) or more of the following: Buildings and facilities intended for use as courthouse, jail, police station, fire station, administrative offices and other offices and related uses, and all buildings, structures, electric, gas, steam and water utilities and facilities of every kind and character deemed by the authority necessary or convenient for the efficient operation of any department, board, office, commission or agency of the City of Dalton in the performance of its governmental, proprietary and administrative functions, or of such buildings and facilities intended for use by any division, department, institution, agency or political subdivision of the State of Georgia, or the government of the United States.
- (4) The term “cost of the project” shall embrace the cost of construction, the cost of all lands, properties, rights and easements and franchises acquired, the cost of all machinery and equipment, financing charges, interest prior to and during construction, cost of engineering, architectural and legal expenses, and of plans and specifications, and other expenses necessary or incident to determining the feasibility or practicability of the project, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, the construction of any project, the placing of the same in operation, and the condemnation of property necessary for such construction and operation. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the cost of the project and may be paid or reimbursed as such out of the proceeds of revenue bonds issued under the provisions herein.

- (5) The terms “revenue bonds” and “bonds,” as used in this section, shall mean revenue bonds under the provisions of the Revenue Bond Law (O.C.G.A. § 36-82-60 et seq.), and such type of obligations may be issued by the authority as authorized under said Revenue Bond Law and in addition, shall also mean obligations of the authority, the issuance of which are hereinafter specifically provided for herein.
 - (6) Any project or combination of projects shall be deemed “self-liquidating” if, in the judgment of the authority, the revenues to be derived by the authority from rentals of said project or projects to the City of Dalton or agencies, authorities, departments and political subdivisions of the State of Georgia and of the United States will be sufficient to pay the cost of maintaining, repairing and operating the project and to pay the principal and interest of revenue bonds which may be issued for the cost of such project, projects, or combination of projects.
- (e) *Powers.* The authority shall have the powers:
- (1) To have a seal and alter the same at pleasure.
 - (2) To acquire by purchase, lease or otherwise, and to hold, lease and dispose of real and personal property of every kind and character for its corporate purposes.
 - (3) To acquire in its own name by purchase, on such terms and conditions and in such manner as it may deem proper or by condemnation in accordance with the provisions of any and all existing laws applicable to the condemnation of property for public use, real property or rights of easements therein or franchises necessary or convenient for its corporate purposes, and to use the same so long as its corporate existence shall continue and to lease or make contracts with respect to the use of or dispose of the same in any manner it deems to the best advantage of the authority, the authority being under no obligation to accept and pay for any property condemned as provided herein except from the funds provided herein, and in any proceedings to condemn, such orders may be made by the court having jurisdiction of the suit, action or proceedings as may be just to the authority and to the owners of the property to be condemned, and no property shall be acquired as provided herein upon which any lien or other incumbrance exists, unless at the time such property is so acquired a sufficient sum of money be deposited in trust to pay and redeem the fair value of such lien or incumbrance.
 - (4) To appoint and select officers, agents and employees, including engineering, architectural and construction experts, fiscal agents and attorneys, and fix their compensation.
 - (5) To make contracts and leases and to execute all instruments necessary or convenient, including contracts for construction of projects and leases of projects or contracts with respect to the use of projects which it causes to be erected or acquired, and the City of Dalton and any divisions, departments, institutions,

agencies, counties or political subdivisions of the State of Georgia are hereby authorized to enter into contracts, leases or agreements with the authority upon such terms and for such purposes as they deem advisable; and without limiting the generality of the above, authority is specifically granted to the said city and any division, department, institution, agency or political subdivision of the State of Georgia to enter into lease contracts and related agreements for the use of any structure, building or facility or a combination of any two (2) or more structures, buildings or facilities of the authority for a term not exceeding fifty (50) years and any division, department, institution, agency or political subdivision of the State of Georgia may obligate itself to pay an agreed sum for the use of such property and the City of Dalton may enter into lease contracts and related agreements for the use of any structure, building or facility or a combination of two (2) or more structures, buildings or facilities of the authority for a term not exceeding fifty (50) years upon a majority vote of its governing body and may obligate itself to pay an agreed sum for the use of such property so leased and also obligate itself as a part of the undertaking to pay the cost of maintaining, repairing and operating the property furnished by and leased from the authority.

- (6) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, operate and manage projects, as hereinabove defined, to be located on property owned by or leased by the authority, the cost of any such project to be paid in whole or in part from the proceeds of revenue bonds of the authority or from such proceeds and any grant from the United States of America or any agency or instrumentality thereof.
 - (7) To accept loans and/or grants of money or materials or property of any kind from the United States of America or any agency or instrumentality thereof upon such terms and conditions as the United States of America or such agency or instrumentality may impose.
 - (8) To borrow money for any of its corporate purposes and to issue negotiable revenue bonds payable solely from funds pledged for that purpose, and to provide for the payment of the same and for the rights of the holders thereof.
 - (9) To exercise any power usually possessed by private corporations performing similar functions, which is not in conflict with this charter, the Constitution, and laws of this state.
 - (10) To do all things necessary or convenient to carry out the powers expressly given herein.
- (f) *Revenue bonds.* The authority, or any authority or body which has or which may in the future succeed to the powers, duties and liabilities vested in the authority created hereby, shall have power and is hereby authorized at one time, or from time to time, to provide by resolution for the issuance of negotiable revenue bonds, for the purpose of paying all or any part of the cost as herein defined of any one or more projects. The principal and

interest of such revenue bonds shall be payable solely from the special fund herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding the maximum limit prescribed in the Revenue Bond Law (O.C.G.A. § 36-82-60 et seq.) or any amendment thereto, shall be payable semiannually, shall mature at such time or times not exceeding thirty (30) years from their date or dates, shall be payable in such medium of payment as to both principal and interest as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority at such price or prices and under such terms and conditions as may be fixed by the authority in the resolution providing for the issuance of the bonds. Such revenue bonds or obligations shall be issued pursuant to and in conformity with the Revenue Bond Law (O.C.G.A. § 36-82-60 et seq.), and all procedures pertaining to such issuance and the conditions thereof shall be the same as those contained in said Revenue Bond Law and any amendments thereto.

- (g) *Form; denominations; registration; place of payment.* The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof which may be at any bank or trust company within or without the state. The bonds may be issued in coupon or registered form or both, as the authority may determine, and provision may be made for the registration of any coupon bond as to the principal alone and also as to both the principal and interest.
- (h) *Signature; seal.* In case any officer whose signature shall appear on any bonds or whose facsimile signature shall appear on any coupon shall cease to be an officer before the delivery of such bonds, such signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All such bonds shall be signed by the chairman of the authority and attested by the secretary and treasurer of the authority and the official seal of the authority shall be affixed thereto and any coupons attached thereto shall bear the facsimile signatures of the chairman and secretary and treasurer of the authority. Any bond may be signed, sealed and attested on behalf of the authority by such persons as at the actual time of the execution of such bonds shall be duly authorized or hold the proper office, although at the date of delivery and payment of such bonds such persons may not have been so authorized or shall not have held such office.
- (i) *Negotiability, exemption from taxation.* All revenue bonds issued under the provisions hereof shall be fully negotiable for all purposes and shall have and are hereby declared to have all of the qualifications of negotiable instruments under the laws of the state. Such bonds are declared to be issued for an essential public and governmental purpose and the said bonds and the income thereof shall be exempt from all taxation within the state.
- (j) *Sale, price.* The authority may sell such bonds in such manner and for such price as it may determine to be for the best interest of the authority.

- (k) *Proceeds of bonds.* The proceeds of such bonds shall be used solely for the payment of the cost of the project or projects, and unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust indenture, additional bonds may in like manner be issued to provide the amount of any deficit, which unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust indenture shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose. If the proceeds of the bonds of any issue shall exceed the amount required for the purpose for which such bonds are issued, the surplus shall be paid into such funds as may be provided in the resolution authorizing the issuance of the bonds or in the trust indenture.
- (l) *Interim receipts and certificates or temporary bonds.* Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts, interim certificates, or temporary bonds, with or without coupons exchangeable for definitive bonds upon the issuance of the latter.
- (m) *Replacement of lost or mutilated bonds.* The authority may also provide for the replacement of any bond which shall become mutilated or be destroyed or lost.
- (n) *Conditions precedent to issuance; object of issuance.* Such revenue bonds may be issued without any other proceedings. In the discretion of the authority, revenue bonds of a single issue may be issued for the purpose of any particular project. Any resolution, providing for the issuance of revenue bonds upon the provisions hereof, shall become effective immediately upon its passage and need not be published or posted, and any such resolution may be passed at any regular or special or adjourned meeting of the authority by a majority of the quorum as herein provided.
- (o) *Credit not pledged and debt not created.* Revenue bonds issued by the authority hereunder shall not be deemed to constitute a debt of the City of Dalton, Georgia, nor of any municipality, county, authority, or political subdivision of the State of Georgia or instrumentality of the United States government which may contract with such authority. No contracts entered into by the authority with any such municipality, county, authority or political subdivision of the State of Georgia or instrumentality of the United States government shall create a debt of the respective municipalities, counties, authorities or political subdivisions of the State of Georgia within the meaning of Article IX, Section V, Paragraph I of the Constitution of the State of Georgia, but any such municipality, county, authority or political subdivision of the State of Georgia may obligate itself to pay the payments required under such contracts from monies received from taxes and from any other source without creating a debt within the meaning of Article IX, Section V, Paragraph I of the Constitution of the State of Georgia.
- (p) *Trust indenture as security.* In the discretion of the authority, any issue of such revenue bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside of the state. Such trust indenture may pledge or assign fees, tolls, revenues, and earnings to be received by the authority, including the proceeds derived

from the sale from time to time of any surplus property of the authority, both real and personal. Either the resolution providing for the issuance of revenue bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property, the construction of the project, the maintenance, operation, repair and insurance of the property, and the custody, safeguarding and application of all monies, including the proceeds derived from the sale of property of the authority, both real and personal, and may also provide that any project shall be constructed and paid for under the supervision and approval of consulting engineers or architects employed or designated by the authority, and satisfactory to the original purchasers of the bonds issued therefor and may also require that the security given by contractors and by any depository of the proceeds of the bonds or revenues or other monies be satisfactory to such purchasers, and may also contain provisions concerning the conditions, if any, upon which additional revenue bonds may be issued. It shall be lawful for any bank or trust company incorporated under the laws of this state to act as such depository and to furnish such indemnifying bonds or pledge such securities as may be required by the authority. Such indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. In addition to the foregoing, such trust indenture may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repair of the project affected by such indenture.

- (q) *To whom proceeds of bonds shall be paid.* The authority shall, in the resolution providing for the issuance of revenue bonds or in the trust indenture, provide for the payment of the proceeds of the sale of the bonds to any officer or person who or any agency, bank or trust company which shall act as trustee of such funds and shall hold and apply the same to the purposes hereof, subject to such regulations as are herein provided and such regulations as may be provided in such resolution or trust indenture.

- (r) *Sinking fund.* The revenues, fees, tolls and earnings derived from any particular project or projects, regardless of whether or not such fees, earnings and revenues were produced by a particular project for which bonds have been issued and any monies derived from the sale of any properties, both real and personal of the authority, unless otherwise pledged and allocated, may be pledged and allocated by the authority to the payment of the principal and interest on revenue bonds of the authority as the resolution authorizing the issuance of the bonds or in the trust instrument may provide, and such funds so pledged from whatever source received, which said pledge may include funds received from one or more or all sources, shall be set aside at regular intervals as may be provided in the resolution or trust indenture, into a sinking fund which said sinking fund shall be pledged to and charged with the payments of:
 - (1) The interest upon such revenue bonds as such interest shall fall due,

- (2) The principal of the bonds as the same shall fall due,
- (3) The necessary charges of paying agent or agents for paying principal and interest, and
- (4) Any premium upon bonds retired by call or purchase as hereinabove provided.

The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the revenue bonds or in the trust indenture, but, except as may otherwise be provided in such resolution or trust indenture, such sinking fund shall be a fund for the benefit of all revenue bonds without distinction or priority of one over another. Subject to the provisions of the resolution authorizing the issuance of the bonds or in the trust indenture surplus monies in the sinking fund may be applied to the purchase or redemption of bonds and any such bonds so purchased or redeemed shall forthwith be cancelled and shall not again be issued.

- (s) *Remedies of bondholders.* Any holder of revenue bonds issued under the provisions hereof or any of the coupons appertaining thereto, and the trustee under the trust indenture, if any, except to the extent the rights herein given may be restricted by resolution passed before the issuance of the bonds or by the trust indenture, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the State of Georgia or granted hereunder such resolution or trust indenture, and may enforce and compel performance of all duties required herein or by such resolution or trust indenture, to be performed by the authority, or any officer thereof, including the fixing, charging, and collecting of revenues, fees, tolls, and other charges for the use of the facilities and services furnished.
- (t) *Refunding bonds.* The authority is hereby authorized to provide by resolution for the issue of revenue bonds of the authority for the purpose of refunding any revenue bonds issued under the provisions hereof and then outstanding, together with accrued interest thereon. The issuance of such revenue refunding bonds, the maturities and all other details thereof, the rights of the holders thereof, and the duties of the authority in respect to the same, shall be governed by the foregoing provisions hereof insofar as the same may be applicable.
- (u) *Venue and jurisdiction.* Any action to protect or enforce any rights under the provisions hereof or any suit or action against such authority shall be brought in the superior court of Whitfield County, Georgia, and any action pertaining to validation of any bonds issued under the provisions hereof shall likewise be brought in said court which shall have exclusive, original jurisdiction of such actions.
- (v) *Validation.* Bonds of the authority shall be confirmed and validated in accordance with the procedure of the Revenue Bond Law (O.C.G.A. § 36-82-60 et seq.). The petition for validation shall also make party defendant to such action any municipality, county, authority, subdivision, or instrumentality of the State of Georgia or the United States government or any department or agency of the United States government, if subject to

be sued, which has contracted with the authority for the services and facilities of the project for which bonds are to be issued and sought to be validated and such municipality, county, authority, subdivision or instrumentality shall be required to show cause, if any, why such contract or contracts and the terms and conditions thereof should not be inquired into by the court and the validity of the terms thereof be determined and the contract or contracts adjudicated as security for the payment of any such bonds of the authority. The bonds when validated and the judgment of validation shall be final and conclusive with respect to such bonds, against the authority issuing the same, and any municipality, county, authority, subdivision, or instrumentality of the United States government, if a party to the validation proceedings, contracting with the said The City of Dalton Building Authority.

- (w) *Interest of bondholders protected.* While any of the bonds issued by the authority remain outstanding, the powers, duties or existence of said authority or of its officers, employees or agents shall not be diminished or impaired in any manner that will affect adversely the interest and rights of the holders of such bonds, and no other entity, department, agency or authority will be created which will compete with the authority to such an extent as to affect adversely the interest and rights of the holders of such bonds, nor will the state itself so compete with the authority. The provisions hereof shall be for the benefit of the authority and the holders of any such bonds, and upon the issuance of bonds under the provisions hereof, shall constitute a contract with the holders of such bonds.
- (x) *Monies received considered trust funds.* All monies received pursuant to the authority hereof, whether as proceeds from the sale of revenue bonds, as grants or other contributions, or as revenues, income, fees, and earnings shall be deemed to be trust funds to be held and applied solely as provided for herein.
- (y) *Exemption from taxation.* It is hereby declared that the authority will be performing an essential governmental function in the exercise of the power conferred upon it hereunder and that the authority shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision or upon its activities in the operation and maintenance of the buildings erected or acquired by it or any fees, rentals or other charges for the use of such buildings or other income received by the authority.
- (z) *Immunity from tort actions.* The authority shall have the same immunity and exemption from liability for torts and negligence as the State of Georgia has and the officers, agents, and employees of the authority when in performance of the work of the authority shall have the same immunity and exemption from liability for torts and negligence as the officers, agents, and employees of the State of Georgia. The authority may be sued in the same manner as private corporations may be sued on any contractual obligation of the authority.
- (aa) *Property subject to levy and sale.* The property of the authority shall not be subject to levy and sale under legal process except such property, revenue, income, or funds as

may be pledged, assigned, mortgaged, or conveyed to secure an obligation of the authority, and any such property, revenue, funds, or income may be sold under legal process or under any power granted by the authority to enforce payment of the obligation.

SECTION 11.11.

Downtown Dalton Development Authority.

The General Assembly created in and for the City of Dalton, the Downtown Dalton Development Authority for the purpose of the redevelopment of the downtown Dalton area. Said authority shall have the power to employ engineers and planners, to contract for the construction of buildings and other facilities, and to contract with the City of Dalton for the construction, reconstruction, altering and changing and closing of streets and alleys. The authority shall have the power to issue bonds and/or revenue certificates, and to pledge revenues and to levy and collect taxes within said districts for the retirement of said indebtedness. No taxes shall be levied by said authority on property used for residential purposes or used for school or church purposes. The authority shall have the right and power of eminent domain for the purpose of acquiring property in the carrying out of its aims and objectives.

DIVISION 2. AIRPORT AUTHORITY

SECTION 11.12.

Short Title.

This Act may be cited as the "City of Dalton Airport Authority Ordinances."

SECTION 11.13.

Purposes.

The City of Dalton Airport Authority, was created pursuant to the previous charter for the City of Dalton first approved February 24, 1874 (1874 Georgia Laws, p. 181), as amended, and is hereby affirmed. The City of Dalton Airport Authority's purposes shall be to oversee the day-to-day operation and general management of the existing airport and landing field of the City of Dalton for the use of aircraft and related aeronautical activities.

SECTION 11.14.

Membership.

The City of Dalton Airport Authority shall be composed of five (5) individuals with qualifications as hereinafter provided, all of whom shall be appointed by the mayor and council of the City of Dalton pursuant to passage of appropriate resolution(s). The members of the City of Dalton Airport

Authority shall be designated by the mayor and council to serve terms for terms of five (5) years. The terms of the members of such authority shall be staggered as in effect on the date of this charter.

Upon the death, resignation or other event creating a vacancy in the seat of any member of the authority, the mayor and council shall fill the vacancy by appointing a qualified individual to fill the unexpired term of the vacating member through passage of an appropriate resolution of the mayor and council. For purposes of determining the time of the regular expiration of any term of office of any member of the authority, a year shall be deemed to run from the date of the first regular meeting of the mayor and council in January of any calendar year until the first regular meeting of the mayor and council in the succeeding calendar year.

A member of the authority must, at the time of appointment by the mayor and council and at all times thereafter, during the tenure of service on the authority possess the following qualifications:

- (i) Maintain a permanent residence within Whitfield County, Georgia; and
- (ii) Be not less than eighteen (18) years of age.

SECTION 11.15.

Ex Officio Members.

The city administrator or his successor in office shall be a non-voting ex officio member of the authority who shall be entitled to participate in all meetings of the authority.

SECTION 11.16.

Meetings.

The authority shall meet at such times as may be necessary to transact the business and fulfill its public purpose but the authority shall hold an organizational meeting each year within thirty (30) days of the first meeting of the mayor and council in January. At each organizational meeting, the members of the authority shall elect one of its members as its chairman and another member as secretary. The term of the chairman and secretary shall be for a period beginning with their election by the authority and expiring with the organizational meeting of the authority in the following year or upon their death, resignation, or vacancy in the position of authority member for whatever reason, whichever shall earlier occur. In the event of a death, resignation, or vacancy in the position of authority member of the chairman or secretary of the authority, the members of the authority shall elect one of their members to fill the vacant office for the expiration of the term of office. The chairman and secretary of the authority may be elected by the authority members for succeeding terms during their tenure.

A meeting of the authority may be held upon call of the chairman, or any two (2) members of the authority, or upon call of the city administrator as a non-voting ex officio member. A quorum for

the transaction of business of the authority shall consist of three (3) voting members of the authority. Each voting member of the authority shall have one vote on all matters and issues to be decided. A vote of the majority of the members of the authority present in person and voting at any meeting of the authority shall carry on any decision to be made.

SECTION 11.17.

Compensation.

No member of the authority shall be paid any salary or compensation for his or her service. However, the mayor and council shall be authorized in its discretion to set by ordinance a mileage allowance and per diem expense for members of the authority traveling or in attendance on official business of the authority. The salary and employment benefits of any staff member(s) of the authority shall be determined by the mayor and council through the budgetary processes of the mayor and council.

SECTION 11.18.

Staff.

The authority shall be authorized to hire, contract with and/or appoint an airport manager and such other employees as they deem necessary to carry out the business, affairs and public purposes of the authority provided compensation and any related benefits to said employees of the authority are included within the budget for the authority set by the mayor and council of the City of Dalton. Further, the authority may employ or retain such expert or consultant services as required to carry on its operations and meet its public purposes subject to the budgetary allowances as set by the mayor and council.

SECTION 11.19.

Budget.

The authority through its chairman shall submit an annual request for budget to the mayor and council or its designated committee at the times and in the form directed by the mayor and council.

SECTION 11.20.

Legal Services.

The city attorney shall serve as counsel and legal adviser to the authority and shall perform such legal services as the authority shall request.

SECTION 11.21.

Powers.

Subject to any general limitations enacted by the mayor and council as well as the budgetary allowances or limitations imposed by the mayor and council and the rights and interests of any holder of bonds or obligations issued by the City of Dalton relating to or affecting property owned, operated, or leased by the City for airport and related aeronautical activities, the authority shall have and exercise the following powers:

- (1) To have a seal and alter the same at its pleasure.
- (2) To appoint, select and employ officers, agents and employees including engineering, architectural and construction experts, and fiscal agents and fix their respective compensation subject to its budgetary limitations.
- (3) To oversee the day-to-day operations and general management of the airport and landing field; however, such power shall not include the power to make or terminate contracts or leases with respect to land, which powers are expressly reserved to the mayor and council.
- (4) To promulgate rules and regulations for air and ground operations on the airport and landing field all in conformity with applicable provisions of federal, state and local laws, statutes, ordinances, and regulations.

SECTION 11.22.

Monies Payable to General Fund.

All revenues collected by the authority on leases, franchises, hangar rentals, service fees, surplus property sales, and from any other source shall be properly accounted for and paid over to the general fund of the City of Dalton. The mayor and council shall establish accounts and audit procedures for revenues collected by the authority and shall implement same at all times.

DIVISION 3. RECREATION COMMISSION

SECTION 11.23.

Creation.

The recreation commission of the City of Dalton was established by resolution of the mayor and council in 1956. Said commission provides direction to, and advises, the City of Dalton parks and recreation department.

ARTICLE XII

GENERAL PROVISIONS

SECTION 12.10.

Bonds for Officials.

The officers and employees of this city, both elective and appointive, 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 12.11.

Prior ordinances.

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

SECTION 12.12.

Pending matters.

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

SECTION 12.13.

Construction.

- (a) Section captions in this charter are informative only and are not to be considered as a part thereof.
- (b) The word “shall” is mandatory and the word “may” is permissive.
- (c) The singular shall include the plural, the masculine shall include the feminine, and vice versa.

SECTION 12.14.

Severability.

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

SECTION 12.15.

Repealer.

An Act creating a new charter for the City of Dalton in the County of Whitfield, first approved February 24, 1874 (1874 Georgia Laws, p. 181), as amended, is hereby repealed in its entirety and all amendatory acts thereto are likewise repealed in their entirety. All other laws and parts of laws

in conflict with this Act are hereby repealed.

SECTION 12.16.

Effective Date.

This charter shall become effective on _____.