

COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 515

A BILL TO BE ENTITLED

AN ACT

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

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I

CREATION, INCORPORATION, AND POWERS

SECTION 1.01.

Incorporation.

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

SECTION 1.02.

Corporate boundaries.

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

SECTION 1.03.

Powers and construction.

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

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

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

- 53 (3) Building regulation. To regulate and to license the erection and construction of
54 buildings and all other structures; to adopt building, housing, plumbing, electrical, gas,
55 and heating and air conditioning codes; and to regulate all housing and building trades
56 to the extent permitted by general law;
- 57 (4) Business regulation and taxation. To levy and to provide for the collection of
58 regulatory fees and taxes on privileges, occupations, trades, and professions as authorized
59 by Title 48 of the O.C.G.A. or such other applicable laws as are or may hereafter be
60 enacted; to permit and regulate the same; to provide for the manner and method of
61 payment of such regulatory fees and taxes; and to revoke such permits after due process
62 for failure to pay any city taxes or fees;
- 63 (5) Condemnation.
- 64 (A) To condemn property inside the corporate limits of the city for present or future
65 use and for any public purpose deemed necessary by the city council, utilizing
66 procedures enumerated in Title 22 of the O.C.G.A. or such other applicable laws as are
67 or may hereafter be enacted; and
- 68 (B) To condemn and cause to be remediated or removed any building, structure, or
69 existing condition within its corporate limits that is dangerous to life, limb, or property,
70 by reasons of decay, dilapidation, or unsanitary condition. Nothing in this
71 subparagraph shall be construed to relieve the city of any duty to give owners or
72 interested persons reasonable notice and opportunity to remedy the situation. Nothing
73 in this subparagraph shall be construed as relieving the city of liability to any owner or
74 interested person for damages to person or property taken or destroyed in furtherance
75 of this subparagraph. This subparagraph shall not be construed as authorizing the doing
76 of any act or thing contrary to the Constitution of this state and the policy of the general
77 laws of this state. The city shall have authority to adopt reasonable ordinances and
78 resolutions for the purpose of carrying out this subparagraph;
- 79 (6) Contracts. To enter into contracts and agreements with other governmental entities
80 and with private persons, firms, and corporations;
- 81 (7) Emergencies. To establish procedures for determining and proclaiming that an
82 emergency situation exists within or without the city and to make and carry out all
83 reasonable provisions deemed necessary to deal with or meet such an emergency for the
84 protection, safety, health, or well-being of the citizens of the city;
- 85 (8) Environmental protection. To protect and preserve the natural resources,
86 environment, and vital areas of the city, the region, and the state through the enactment
87 of ordinances that preserve and improve air quality, restore and maintain water resources,
88 control erosion and sedimentation, manage storm water and establish a storm-water

89 utility, manage solid and hazardous waste, and provide other necessary or beneficial
90 actions for the protection of the environment;

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

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

99 (11) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection
100 and disposal and other sanitary service charge, tax, or fee for such services as may be
101 necessary in the operation of the city from all individuals, firms, and corporations
102 residing in or doing business therein benefiting from such services; to enforce the
103 payment of such charges, taxes, or fees; and to provide for the manner and method of
104 collecting such service charges, taxes, or fees;

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

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

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

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

117 (16) Jail sentences. To provide that persons given jail sentences in the city's court may
118 work out such sentences in any public works or on the streets, roads, drains, and other
119 public property in the city; to provide for commitment of such persons to any jail; to
120 provide for the use of pretrial diversion and any alternative sentencing allowed by
121 Georgia law; or to provide for commitment of such persons to any county work camp or
122 county jail by agreement with the appropriate county officials;

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

- 126 (18) Municipal agencies and delegation of power. To create, alter, or abolish
127 departments, boards, offices not specified in this charter, commissions, authorities, and
128 agencies of the city and to confer upon such agencies the necessary and appropriate
129 authority for carrying out all the powers conferred upon or delegated to the same;
- 130 (19) Municipal courts. To create a municipal court with a judge or judge and associate
131 judges as may be necessary and to authorize the creation of a municipal court clerk's
132 office or make said clerk's duties a part of the duties of the city clerk as designated by the
133 city council;
- 134 (20) Municipal debts. To appropriate and borrow money for the payment of debts of the
135 city and to issue bonds for the purpose of raising revenue to carry out any project,
136 program, or venture authorized by this charter or the laws of the State of Georgia;
- 137 (21) Municipal property ownership. To acquire, dispose of, lease, and hold in trust or
138 otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or
139 outside the property limits of the city;
- 140 (22) Municipal property protection. To provide for the preservation and protection of
141 property and equipment of the city and the administration and use of same by the public
142 and to prescribe penalties and punishment for violations thereof;
- 143 (23) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose
144 of public utilities, including, but not limited to, a system of waterworks, sewers and
145 drains, sewage disposal, storm-water management, gas works, electricity generating
146 plants, cable television and other telecommunications, transportation facilities, public
147 airports, and any other public utility; to fix the taxes, charges, rates, fares, fees,
148 assessments, regulations, and penalties; and to provide for the withdrawal of service for
149 refusal or failure to pay the same;
- 150 (24) Nuisance. To define a nuisance and provide for its abatement whether on public or
151 private property;
- 152 (25) Penalties. To provide penalties for violation of any ordinances adopted pursuant to
153 the authority of this charter and the laws of the State of Georgia;
- 154 (26) Planning and zoning. To provide comprehensive city planning for city land use,
155 signage, and outside advertising, and development by zoning; and to provide subdivision
156 regulation and the like as the city council deems necessary and reasonable to ensure a
157 safe, healthy, and esthetically pleasing community;
- 158 (27) Police and fire protection. To exercise the power of arrest through duly appointed
159 police officers and to establish, operate, or contract for a police and a fire-fighting
160 agency;

- 161 (28) Public hazards: removal. To provide for the destruction and removal of any
162 building or other structure which is or may become dangerous or detrimental to the
163 public;
- 164 (29) Public improvements. To provide for the acquisition, construction, building,
165 operation, maintenance, or abolition of public ways, parks and playgrounds, recreational
166 facilities, cemeteries, public buildings, libraries, public housing, parking facilities, and
167 charitable, cultural, educational, recreational, conservation, sport, detentional, penal, and
168 medical institutions, agencies, and facilities; to provide any other public improvements,
169 inside the corporate limits of the city and to regulate the use of public improvements; and
170 for such purposes, property may be acquired by condemnation under Title 22 of the
171 O.C.G.A. or such other applicable laws as are or may hereafter be enacted;
- 172 (30) Public peace. To provide for the prevention and punishment of loitering, disorderly
173 conduct, drunkenness, riots, and public disturbances;
- 174 (31) Public transportation. To organize and operate such public transportation systems
175 as are deemed beneficial;
- 176 (32) Public utilities and services. To grant franchises or make contracts for, or impose
177 taxes on, public utilities and public service companies; and to prescribe the rates, fares,
178 regulations, and standards and conditions of service applicable to the service to be
179 provided by the franchise grantee or contractor, insofar as not in conflict with valid
180 regulations of the Public Service Commission;
- 181 (33) Regulation of roadside areas. To prohibit or regulate and control the erection,
182 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any
183 and all other structures or obstructions upon or adjacent to the rights of way of streets and
184 roads or within view thereof, within or abutting the corporate limits of the city; and to
185 prescribe penalties and punishment for violation of such ordinances;
- 186 (34) Retirement and employee benefits. To provide and maintain a retirement plan,
187 insurance, and such other employee benefits for appointed officers and employees of the
188 city, as are determined by the city council;
- 189 (35) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade
190 of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise
191 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and
192 walkways within the corporate limits of the city; to grant franchises and rights of way
193 throughout the streets and roads and over the bridges and viaducts for the use of public
194 utilities; and to require real estate owners to repair and maintain in a safe condition the
195 sidewalks adjoining their lots or lands and to impose penalties for failure to do so;
- 196 (36) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish,
197 and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by

198 others; and to provide for the separate collection of glass, tin, aluminum, cardboard,
199 paper, and other recyclable materials and to provide for the sale of such items;
200 (37) Special assessments. To levy and provide for the collection of special assessments
201 to cover the costs for any public improvements, subject to referendum;
202 (38) Taxes: ad valorem. To levy and provide for the assessment, valuation, revaluation,
203 and collection of taxes on all property subject to taxation to a maximum of 1 mill without
204 a referendum;
205 (39) Taxes: other. To levy and collect such other taxes and fees as may be allowed now
206 or in the future by law;
207 (40) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the
208 number of such vehicles; to require the operators thereof to be licensed; to require public
209 liability insurance on such vehicles in the amounts to be prescribed by ordinance; to
210 inspect such vehicles and mandate standards of safety and cleanliness; and to regulate the
211 parking of such vehicles;
212 (41) Tourism, conventions, and trade shows. To provide for the structure, operation, and
213 management of the Tucker Convention and Visitors Bureau created pursuant to
214 Section 1.05 of this charter and to authorize the City of Tucker to contract with private
215 sector nonprofit organizations or other governmental agencies to promote tourism,
216 conventions, and trade shows;
217 (42) Urban redevelopment. To organize and operate an urban redevelopment program;
218 and
219 (43) Other powers. To exercise and enjoy all other powers, functions, rights, privileges,
220 and immunities necessary or desirable to promote or protect the safety, health, peace,
221 security, good order, comfort, convenience, or general welfare of the city and its
222 inhabitants; to exercise all implied powers necessary or desirable to carry into execution
223 all powers granted in this charter as fully and completely as if such powers were fully
224 stated herein; and to exercise all powers now or in the future authorized to be exercised
225 by other municipal governments under other laws of the State of Georgia; and any listing
226 of particular powers in this charter shall not be held to be exclusive of others or restrictive
227 of general words and phrases granting powers but shall be held to be in addition to such
228 powers unless expressly prohibited to municipalities under the Constitution or applicable
229 laws of the State of Georgia.

230 (b) Except as provided in subsection (c) of this section, the city shall exercise the powers
231 enumerated in subsection (a) of this section only for the purposes of planning and zoning,
232 code adoption and enforcement, and parks and recreation services and those items directly
233 related to the provision of such services and for the general administration of the city in
234 providing such services.

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

245 **SECTION 1.04.**

246 Exercise of powers.

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

251 **SECTION 1.05.**

252 Tourism, conventions, and trade shows.

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

257 **ARTICLE II**

258 **GOVERNMENT STRUCTURE, ELECTIONS, AND LEGISLATIVE BRANCH**

259 **SECTION 2.01.**

260 City council creation; number; election.

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

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

266 (2) There shall be three council districts, designated as Council Districts 1 through 3, as
 267 described in Appendix B of this charter, which is attached to and made a part of this
 268 charter of the City of Tucker.

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

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

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

298 (e) With the exception of the initial term of office, the mayor of the City of Tucker, with the
 299 powers and duties specified in this charter, shall be elected to a term of four years and until
 300 his or her successor is elected and qualified. The mayor shall be elected by a majority vote
 301 of the qualified electors of the city at large voting at the elections of the city. In the event
 302 that no candidate for mayor obtains a majority vote of the qualified electors of the city at

303 large voting at the elections of the city, then a run-off election shall be held. The candidates
304 receiving the two highest numbers of votes in the election shall be included in the run-off
305 election, and the candidate receiving the highest number of votes in the runoff of the
306 qualified electors of the city at large voting in such runoff shall be elected. The term of the
307 first elected mayor shall expire upon the administration of the oath of office to his or her
308 successor elected in the regular election held in November, 2017, as provided in
309 subsection (b) of Section 2.02 of this charter. Thereafter, a successor to each mayor shall be
310 elected at the November election immediately preceding the end of such mayor's term of
311 office and the term of each mayor shall expire upon the administration of the oath of office
312 to his or her successor.

313 **SECTION 2.02.**

314 Mayor and councilmembers; terms and qualifications for office.

315 (a) For all elections subsequent to the first election, the mayor and councilmembers shall
316 serve for terms of four years and until their terms shall expire upon the administration of the
317 oath of office to their respective successors. No person shall be eligible to serve as mayor
318 or councilmember unless that person shall have been a resident of the City of Tucker for a
319 continuous period of at least 12 months immediately prior to the date of election for mayor
320 or councilmember, shall continue to reside therein during that person's period of service, and
321 shall continue to be registered and qualified to vote in municipal elections of the City of
322 Tucker. In addition to the above requirements, no person shall be eligible to serve as a
323 councilmember representing a council district unless that person continues to reside in such
324 district during that person's period of service.

325 (b) An election shall be held on the date of and in conjunction with the 2016 presidential
326 preference primary to elect the first mayor and city council. At such election, the first mayor
327 and council shall be elected to serve for the initial terms of office specified in subsections (d)
328 and (e) of Section 2.01. Thereafter, the time for holding regular municipal elections shall be
329 on the Tuesday after the first Monday in November of each odd-numbered year beginning
330 in 2017.

331 (c) The number of successive terms an individual may hold a position as a councilmember
332 shall be limited to two terms.

333 (d) The number of successive terms an individual may hold the position of mayor shall be
334 limited to three terms.

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SECTION 2.03.

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Vacancy; filling of vacancies; suspensions.

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(a) Elected officials of the city shall not hold other elective or public offices. The elective offices of the city's government shall become vacant upon the incumbent's death, resignation, removal, or forfeiture of office. The following shall result in an elected city official forfeiting his or her office:

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(1) Failing to reside in the city or the district from which such person was elected;

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(2) Being convicted of, or pleading guilty or nolo contendere to, a felony or any misdemeanor involving theft or deception; or

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(3) Failing to attend one-third of the regular meetings of the council in a three-month period without being excused by the council.

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(b) The office of mayor shall become vacant upon the incumbent's death, resignation, forfeiture of office, or removal from office in any manner authorized by this charter or the general laws of the State of Georgia. A vacancy in the office of mayor shall be filled for the remainder of the unexpired term by a special election if such vacancy occurs 12 months or more prior to the expiration of the term of that office. If such vacancy occurs within 12 months of the expiration of the term of that office, the city council or those members remaining shall appoint a successor for the remainder of the term. This provision shall also apply to a temporary vacancy created by the suspension from office of the mayor.

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(c) The office of a councilmember shall become vacant upon the incumbent's death, resignation, forfeiture of office, or removal from office in any manner authorized by this charter or the general laws of the State of Georgia. A vacancy in the office of a councilmember shall be filled for the remainder of the unexpired term by a special election if such vacancy occurs 12 months or more prior to the expiration of the term of that office. If such vacancy occurs within 12 months of the expiration of the term of that office, the mayor shall appoint a successor for the remainder of the term, subject to the approval of the city council or those members remaining. This provision shall also apply to a temporary vacancy created by the suspension from office of a councilmember.

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SECTION 2.04.

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Nonpartisan elections.

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

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SECTION 2.05.

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Election votes.

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

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SECTION 2.06.

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Applicability of general laws; qualifying; other provisions.

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

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SECTION 2.07.

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Compensation and expenses.

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

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SECTION 2.08.

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Inquiries and investigations.

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

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SECTION 2.09.

Meetings, oath of office, and mayor pro tempore.

(a) The city council shall meet on the seventh working day in January immediately following each regular municipal election. The meeting shall be called to order by the mayor-elect, and the oath of office shall be administered to the newly elected mayor and councilmembers collectively by a judicial officer authorized to administer oaths. The oath shall, to the extent that it comports with federal and state law, be as follows:

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

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

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

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

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

442 **SECTION 2.10.**

443 Quorum; voting.

444 (a) Four councilmembers shall constitute a quorum and shall be authorized to transact
 445 business for the city council. The mayor shall be counted toward the making of a quorum.
 446 Voting on the adoption of ordinances shall be taken by voice vote, and the yeas and nays
 447 shall be recorded in the minutes, but on the request of any member, there shall be a roll call
 448 vote. In order for any ordinance, resolution, motion, or other action of the city council to be
 449 adopted, the measure shall receive at least three affirmative votes and shall receive the
 450 affirmative votes of a majority of those voting. Notwithstanding any provision to the
 451 contrary, no ordinance shall be adopted if the ordinance receives a no vote from both
 452 councilmembers that have a residence requirement in any one of the three districts.

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

464 (c) The following types of actions require an ordinance in order to have the force of law:
 465 (1) Adopt or amend an administrative code or establish, alter, or abolish a department,
 466 office not specified in this charter, or agency;

- 467 (2) Provide for a fine or other penalty;
 - 468 (3) Levy taxes;
 - 469 (4) Grant, renew, or extend a franchise;
 - 470 (5) Regulate a rate for a public utility;
 - 471 (6) Authorize the borrowing of money;
 - 472 (7) Convey, lease, or encumber city land;
 - 473 (8) Regulate land use and development;
 - 474 (9) Amend or repeal an ordinance already adopted; and
 - 475 (10) Propose and vote on a budget for the fiscal year and to authorize a budget plan for
 - 476 a term beyond the current fiscal year.
- 477 (d) The city council shall establish by ordinance procedures for convening emergency
- 478 meetings. In an emergency, an ordinance may be passed without notice or hearings if the
- 479 city council passes the ordinance by a three-fourths' vote; provided, however, that the city
- 480 council shall not in an emergency meeting:
- 481 (1) Levy taxes;
 - 482 (2) Grant, renew, or extend a franchise;
 - 483 (3) Regulate a rate for a public utility; or
 - 484 (4) Borrow money.

485 **SECTION 2.11.**

486 General power and authority of the city council.

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

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SECTION 2.12.

498

Administrative and service departments.

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(a) Except for the office of city manager and the positions provided for in this charter, the city council, by ordinance, may establish, abolish, merge, or consolidate offices not specified in this charter, positions of employment, departments, and agencies of the city as it shall deem necessary for the proper administration of the affairs and government of the city. The city council shall prescribe the functions and duties of existing departments, offices, and agencies or of any departments, offices, and agencies created or established under this charter; may provide that the same person shall fill any number of offices and positions of employment; and may transfer or change the functions and duties of offices, positions of employment, departments, and agencies of the city.

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(b) The operations and responsibilities of each department now or hereafter established in the city shall be distributed among such divisions or bureaus as may be provided by ordinance of the city council. Each department shall consist of such officers, employees, and positions as may be provided by this charter or by ordinance and shall be subject to the general supervision and guidance of the mayor and city council.

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SECTION 2.13.

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Prohibitions.

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

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

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(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 official duties or would tend to impair the independence of his or her judgment or action in the performance of official duties;

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

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(4) Accept any valuable gift, whether in the form of service, loan, object, or promise, from any person, firm, or corporation which to his or her knowledge is interested, directly

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531 or indirectly, in any manner whatsoever, in business dealings with the governmental body
 532 by which he or she is engaged. As used in this paragraph, the term "valuable" means an
 533 amount determined by the city council; provided, however, that the amount shall not
 534 exceed \$150.00; or

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

538 (b) Any elected official, appointed officer, or employee who has any private financial
 539 interest, directly or indirectly, in any contract or matter pending before or within any
 540 department of the city shall disclose such private interest to the city council. As used in this
 541 subsection, the term "private financial interest" includes the interest of a spouse, child, or
 542 significant other or domestic partner. The mayor or any councilmember who has a private
 543 interest in any matter pending before the city council shall disclose in writing such private
 544 interest, such disclosure shall be entered on the records of the city council, and he or she shall
 545 disqualify himself or herself from participating in any decision or vote relating thereto. Any
 546 elected official, appointed officer, or employee of any agency or political entity to which this
 547 charter applies who shall have any private financial interest, directly or indirectly, in any
 548 contract or matter pending before or within such entity shall disclose such private interest to
 549 the governing body of such agency or entity.

550 (c) No elected official, appointed officer, or employee of the city or any agency or entity to
 551 which this charter applies shall use property owned by such governmental entity for personal
 552 benefit, convenience, or profit, except in accordance with policies promulgated by the city
 553 council or the governing body of such agency or entity.

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

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

560 **SECTION 2.14.**

561 **Boards, commissions, and authorities.**

562 (a) All members of boards, commissions, and authorities of the city shall be nominated by
 563 the mayor subject to confirmation by the city council for such terms of office and such
 564 manner of appointment as provided by ordinance, except where other appointing authority,
 565 term of office, or manner of appointment is prescribed by this charter or by applicable state

566 law. If the city council does not approve of two consecutive nominations by the mayor for
 567 the same position, any councilmember may nominate such member subject to confirmation
 568 by the city council.

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

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

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

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

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

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

592 **SECTION 2.15.**

593 Ordinance form; procedures.

594 (a) Every proposed ordinance and resolution shall be introduced in writing, and the city
 595 council shall have the authority to approve, disapprove, or amend such ordinance or
 596 resolution. A resolution may be passed at the time it is offered, but an ordinance shall not
 597 be adopted until the title of such ordinance shall have been read at two city council meetings,
 598 provided that the beginning of such meetings be not less than 24 hours nor more than 60 days
 599 apart. This requirement of two readings shall not apply to emergency ordinances, to
 600 ordinances passed during the first 90 days from the date on which the city begins operation,

601 or to ordinances adopted at the first meeting of the initial city council as elected under
 602 subsection (b) of Section 2.02 of this charter. The catchlines of sections of this charter or any
 603 ordinance printed in boldface type, italics, or otherwise are intended as mere catchwords to
 604 indicate the contents of the section and:

605 (1) Shall not be deemed or taken to be titles of such sections or as any part of the section;
 606 and

607 (2) Shall not be so deemed when any of such sections, including the catchlines, are
 608 amended or reenacted unless expressly provided to the contrary.

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

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

616 **SECTION 2.16.**

617 Submission of ordinances to the city clerk.

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

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

624 **ARTICLE III**
 625 **EXECUTIVE BRANCH**

626 **SECTION 3.01.**

627 Powers and duties of the mayor.

628 (a) The mayor shall:

629 (1) Preside over all meetings of the city council;

630 (2) Set the agenda for meetings of the city council after receiving input from members
 631 of the city council, the city manager, and the public; provided, however, that an additional
 632 item shall be added to the agenda upon the written request of any member of the city

- 633 council, and name of the mayor or councilmember placing an item on the agenda shall
 634 be noted on the agenda;
- 635 (3) Serve as the ceremonial head of the city and as its official representative to federal,
 636 state, and local government bodies and officials;
- 637 (4) Sign all orders, checks, and warrants for payment of money within a level of
 638 authorization as established by the city council;
- 639 (5) Execute all contracts, deeds, and other obligations of the city within a level of
 640 authorization as established by the city council;
- 641 (6) Vote in all matters before the city council as provided in subsection (a) of
 642 Section 2.10 of this charter;
- 643 (7) Make all appointments of city officers as provided by this charter, subject to
 644 confirmation by the city council;
- 645 (8) Serve in a part-time capacity and be compensated accordingly;
- 646 (9) Approve all raises or increases in compensation of city staff with the consent of the
 647 city council; and
- 648 (10) Perform any other duties and exercise any other powers required by state or federal
 649 law or authorized by a duly adopted ordinance that is not in conflict with this charter.
- 650 (b) The mayor shall have the authority to certify that a supplemental appropriation is
 651 possible due to unexpected revenue increases but only with approval of the city council.
- 652 (c) The mayor shall have all of the powers specifically granted to the mayor elsewhere in
 653 this charter regardless of whether such powers are enumerated in this section.

654 **SECTION 3.02.**

655 City manager; appointment and qualification.

656 The mayor shall nominate a person for the office of city manager, and the approval of the
 657 city council shall be required to make the appointment official. If the first proposed city
 658 manager is rejected by the city council, the mayor shall make a second appointment
 659 selection. If the city council rejects that second appointment selection, the city council shall
 660 offer a candidate for city manager and, by a majority vote, send the appointee to the mayor
 661 for approval. If the mayor vetoes or does not approve, a second vote of a two-thirds' majority
 662 of the council shall be needed to approve the appointee for the position. The city council
 663 may offer as many candidates as needed until the required approval is achieved. The city
 664 manager shall be appointed without regard to political beliefs and solely on the basis of his
 665 or her education and experience in the accepted competencies and practices of local
 666 government management.

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SECTION 3.03.

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City manager; chief administrative officer.

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The city manager shall be the chief administrative officer of the government of the city. The city manager shall devote all of his or her working time and attention to the affairs of the city and shall be responsible to the mayor and city council for the proper and efficient administration of the affairs of the city over which such officer has jurisdiction.

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SECTION 3.04.

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City manager; powers and duties enumerated.

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

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(1) See that all laws and ordinances are enforced;

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(2) Propose a budget for city operations from a zero base with input from the actual expenditures of the city from the prior year;

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(3) Appoint and employ all necessary employees of the city, provided that the power of this appointment shall not include officers and employees who, by this charter, are appointed or elected by the mayor and the city council or departments not under the jurisdiction of the city manager;

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(4) Remove employees appointed and employed under paragraph (3) of this section, without the consent of the city council and without assigning any reason therefor;

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(5) Exercise supervision and control of all departments and all divisions created in this charter or that may hereafter be created by the city council except as otherwise provided in this charter or specified by the city council;

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(6) Attend all meetings of the city council, without a right to vote, but with a right to take part in the discussions as seen fit by the chairperson; provided, however, that regardless of the decision of the meeting chairperson, the city manager may take part in any discussion and report on any matter requested and approved by the city council at such meeting. The city manager shall be entitled to notice of all special meetings;

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(7) Recommend to the city council for adoption such measures as the city manager may deem necessary or expedient;

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(8) See that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed and, upon knowledge of any violation thereof, to call the same to the attention of the city attorney, whose duty it shall be forthwith to take such steps as are necessary to protect and enforce the same;

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(9) Make and execute all lawful contracts on behalf of the city as to matters within the city manager's level of authorization as established by the city council to the extent that

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701 such contracts are funded in the city's budget, except such as may be otherwise provided
702 by law; provided, however, that no contract purchase or obligation requiring a budget
703 amendment shall be valid and binding until after approval of the city council;

704 (10) Sign all orders, checks, and warrants for payment of money within the city
705 manager's level of authorization as established by the city council to the extent that such
706 contracts are funded in the city's budget, except such as may be otherwise provided by
707 law; provided, however, that no such order, check, or warrant requiring a budget
708 amendment shall be valid and binding until after approval of the city council;

709 (11) Act as budget officer to prepare and submit to the city council, after review and
710 comment by the mayor, prior to the beginning of each fiscal year, a budget of proposed
711 expenditures for the ensuing year, showing in as much detail as practicable the amounts
712 allotted to each department of the city government and the reasons for such estimated
713 expenditures;

714 (12) Keep the city council at all times fully advised as to the financial condition and
715 needs of the city;

716 (13) Make a full written report to the city council on the fifteenth of each month showing
717 the operations and expenditures of each department of the city government for the
718 preceding month, and a synopsis of such reports shall be published by the city clerk;

719 (14) Fix all salaries and compensation of city employees in accordance with the city
720 budget and the city pay and classification plan;

721 (15) Shall have the authority to transfer appropriations within a department, fund,
722 service, strategy, or organizational unit, but only with the approval of the city council;
723 and

724 (16) Perform such other duties as may be prescribed by this charter or required by
725 ordinance or resolution of the city council.

726 **SECTION 3.05.**

727 City council interference with administration.

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

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SECTION 3.06.

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City manager; removal.

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

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(1) The city council shall adopt by affirmative vote of a majority of all its members a preliminary resolution removing the city manager and may suspend the city manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the city manager;

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

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

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(b) The city manager shall continue to receive his or her salary until the effective date of a final resolution of his or her removal. The action of the city council in suspending or removing the city manager shall not be subject to review by any court or agency.

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(c) If the city manager is suspended in accordance with subsection (a) of this section or becomes disabled and is unable to carry out the duties of the office or if the city manager dies, the acting city manager shall perform the duties of the city manager until the city manager's disability is removed or until the city manager is replaced. Removal of the city manager because of disability shall be carried out in accordance with the provisions of subsection (a) of this section.

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SECTION 3.07.

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Acting city manager.

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(a) The mayor with the approval of the city council may appoint any person to exercise all powers, duties, and functions of the city manager during the city manager's suspension under subsection (a) of Section 3.06 of this charter, temporary absence from the city, or during the city manager's disability.

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766 (b) In the event of a vacancy in the office of city manager, the mayor may designate with the
767 approval of the city council a person as acting city manager, who shall exercise all powers,
768 duties, and functions of the city manager until a city manager is appointed.

769 **SECTION 3.08.**

770 City attorney.

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

790 **SECTION 3.09.**

791 City clerk.

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

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SECTION 3.10.

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Tax collector.

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

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SECTION 3.11.

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City accountant.

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

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SECTION 3.12.

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City internal auditor.

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

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SECTION 3.13.

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Consolidation of functions.

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

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SECTION 3.14.

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Position classification and pay plans; employment at will.

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The city manager shall be responsible for the preparation of a position classification and a

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pay plan which shall be submitted to the city council for approval. Such plan may apply to

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all employees of the City of Tucker and any of its agencies and offices. When a pay plan has

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been adopted by the city council, neither the city council nor the city manager shall increase

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or decrease the salaries of individual employees except in conformity with such pay plan or

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pursuant to an amendment of such pay plan duly adopted by the city council. Except as

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otherwise provided in this charter, all employees of the city shall be subject to removal or

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discharge, with or without cause, at any time.

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ARTICLE IV

835

MUNICIPAL COURT

836

SECTION 4.01.

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Creation.

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The city council may establish by ordinance a court to be known as the Municipal Court of

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the City of Tucker which shall have jurisdiction and authority to try offenses against the laws

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and ordinances of such city and to punish for a violation of such laws or ordinances. Such

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court shall have the power to enforce its judgments by the imposition of such penalties as

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may be provided by law, including ordinances of the city; to punish witnesses for

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nonattendance and to punish also any person who may counsel or advise, aid, encourage, or

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persuade another whose testimony is desired or material in any proceeding before such court

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to go or move beyond the reach of the process of the court; to try all offenses within the

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territorial limits of the city constituting traffic cases which, under the laws of Georgia, are

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placed within the jurisdiction of municipal courts to the extent of, and in accordance with,

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the provisions of such laws and all laws subsequently enacted amendatory thereof. Such

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court shall be presided over by a judge of such court pursuant to Chapters 32 through 45

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and 60 through 76 of Title 36 of the O.C.G.A. The provisions of this article shall apply only

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upon the creation of the municipal court.

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SECTION 4.02.

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Judges.

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(a) There shall be at least one judge of the municipal court and that judge shall be designated

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as the chief judge with the authority to direct the court calendar, recommend associate judges

856 to the city council, sit in presiding matters, discipline the city solicitors, and enforce all the
857 powers of a judicial officer pursuant to Chapter 1 of Title 15 of the O.C.G.A.

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

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

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

870 (1) Willful misconduct in office;

871 (2) Willful and persistent failure to perform duties;

872 (3) Habitual intemperance;

873 (4) Conduct prejudicial to the administration of justice which brings the judicial office
874 into disrepute; or

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

877 **SECTION 4.03.**

878 Convening.

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

881 **SECTION 4.04.**

882 Jurisdiction; powers.

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

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

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

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

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

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

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

909 **SECTION 4.05.**

910 Certiorari.

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

915 **SECTION 4.06.**

916 Rules for court.

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

920 ARTICLE V
921 FINANCE AND FISCAL
922 **SECTION 5.01.**
923 Fiscal year.

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

928 **SECTION 5.02.**
929 Preparation of budgets.

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

933 **SECTION 5.03.**
934 Submission of operating budget to city council.

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

945 (b) Prior to passage of the budget, the city council shall hold a special public hearing at
946 which the budget shall be presented and public comment on the budget shall be solicited.
947 The date, time, and place of the special public hearing shall be announced no less than
948 30 days prior to the scheduled date for such hearing.

949 (c) All unencumbered balances of appropriations in the current operating budget at the end
950 of the fiscal year shall lapse into the unappropriated surplus or reserves of the fund or funds
951 from which such appropriations were made. When a supplemental appropriation is certified

952 by the city manager to exist, these appropriations may be spent during the current fiscal year
 953 following passage of a supplemental appropriation ordinance.

954 **SECTION 5.04.**

955 Action by city council on budget.

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

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

966 **SECTION 5.05.**

967 Procurement and property management.

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

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

976 **SECTION 5.06.**

977 Purchasing.

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

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SECTION 5.07.

External audits.

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

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

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

SECTION 5.08.

Homestead exemption; freeze.

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

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

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

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

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

(c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority

1014 of the City of Tucker, or the designee thereof, giving such information relative to receiving
 1015 such exemption as will enable the governing authority of the City of Tucker, or the designee
 1016 thereof, to make a determination regarding the initial and continuing eligibility of such owner
 1017 for such exemption. The governing authority of the City of Tucker, or the designee thereof,
 1018 shall provide application forms for this purpose.

1019 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of
 1020 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year
 1021 so long as the owner occupies the residence as a homestead. After a person has filed the
 1022 proper application as provided in subsection (c) of this section, it shall not be necessary to
 1023 make application thereafter for any year, and the exemption shall continue to be allowed to
 1024 such person. It shall be the duty of any person granted the homestead exemption under
 1025 subsection (b) of this section to notify the governing authority of the City of Tucker, or the
 1026 designee thereof, in the event that person for any reason becomes ineligible for that
 1027 exemption.

1028 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state
 1029 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent
 1030 school district ad valorem taxes for educational purposes. The homestead exemption granted
 1031 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead
 1032 exemption applicable to municipal ad valorem taxes for municipal purposes.

1033 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years
 1034 beginning on or after January 1, 2017.

1035 **SECTION 5.09.**

1036 Homestead exemption; senior citizens; disabled.

1037 (a) As used in this section, the term:

1038 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal
 1039 purposes levied by, for, or on behalf of the City of Tucker, including, but not limited to,
 1040 any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

1041 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of
 1042 the O.C.G.A., as amended.

1043 (3) "Income" means Georgia taxable net income determined pursuant to Chapter 7 of
 1044 Title 48 of the O.C.G.A., as amended, for state income tax purposes, except income shall
 1045 not include income received as retirement, survivor, or disability benefits under the
 1046 federal Social Security Act or under any other public or private retirement, disability, or
 1047 pension system, except such income which is in excess of the maximum amount
 1048 authorized to be paid to an individual and such individual's spouse under the federal

1049 Social Security Act. Income from such sources in excess of such maximum amount shall
1050 be included as income for the purposes of this charter.

1051 (4) "Senior citizen" means a person who is 65 years of age or over on or before January 1
1052 of the year in which application for the exemption under subsection (b) of this section is
1053 made.

1054 (b) Each resident of the City of Tucker who is disabled or is a senior citizen is granted an
1055 exemption on that person's homestead from City of Tucker ad valorem taxes for municipal
1056 purposes in the amount of \$14,000.00 of the assessed value of that homestead. The
1057 exemption granted by this subsection shall only be granted if that person's income, together
1058 with the income of the spouse who also occupies and resides at such homestead, does not
1059 exceed \$15,000.00 for the immediately preceding year. The value of that property in excess
1060 of such exempted amount shall remain subject to taxation.

1061 (c)(1) In order to qualify for the exemption provided for in subsection (b) of this section
1062 due to being disabled, the person claiming such exemption shall be required to obtain a
1063 certificate from not more than three physicians licensed to practice medicine under
1064 Chapter 34 of Title 43 of the O.C.G.A., as amended, certifying that, in the opinion of
1065 such physician or physicians, such person is mentally or physically incapacitated to the
1066 extent that such person is unable to be gainfully employed and that such incapacity is
1067 likely to be permanent. Such certificate or certificates shall constitute part of and be
1068 submitted with the application provided for in paragraph (2) of this subsection.

1069 (2) A person shall not receive the homestead exemption granted by subsection (b) of this
1070 section unless the person or person's agent files an application with the governing
1071 authority of the City of Tucker, or the designee thereof, giving the person's age, income,
1072 and such additional information relative to receiving such exemption as will enable the
1073 governing authority of the City of Tucker, or the designee thereof, to make a
1074 determination regarding the initial and continuing eligibility of such owner for such
1075 exemption. The governing authority of the City of Tucker, or the designee thereof, shall
1076 provide application forms for this purpose.

1077 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of
1078 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year
1079 so long as the owner occupies the residence as a homestead. After a person has filed the
1080 proper application, as provided in subsection (c) of this section, it shall not be necessary to
1081 make application thereafter for any year and the exemption shall continue to be allowed to
1082 such person. It shall be the duty of any person granted the homestead exemption under
1083 subsection (b) of this section to notify the governing authority of the City of Tucker, or the
1084 designee thereof, in the event that person for any reason becomes ineligible for that
1085 exemption.

1086 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state
 1087 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent
 1088 school district ad valorem taxes for educational purposes. The homestead exemption granted
 1089 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead
 1090 exemption applicable to municipal ad valorem taxes for municipal purposes.

1091 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years
 1092 beginning on or after January 1, 2017.

1093 **SECTION 5.10.**

1094 Homestead exemption; general.

1095 (a) As used in this section, the term:

1096 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal
 1097 purposes levied by, for, or on behalf of the City of Tucker, including, but not limited to,
 1098 any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

1099 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of
 1100 the O.C.G.A., as amended.

1101 (b) Each resident of the City of Tucker is granted an exemption on that person's homestead
 1102 from City of Tucker ad valorem taxes for municipal purposes in the amount of \$10,000.00
 1103 of the assessed value of that homestead. The value of that property in excess of such
 1104 exempted amount shall remain subject to taxation.

1105 (c) A person shall not receive the homestead exemption granted by subsection (b) of this
 1106 section unless the person or person's agent files an application with the governing authority
 1107 of the City of Tucker, or the designee thereof, giving such information relative to receiving
 1108 such exemption as will enable the governing authority of the City of Tucker, or the designee
 1109 thereof, to make a determination regarding the initial and continuing eligibility of such owner
 1110 for such exemption. The governing authority of the City of Tucker, or the designee thereof,
 1111 shall provide application forms for this purpose.

1112 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of
 1113 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year
 1114 so long as the owner occupies the residence as a homestead. After a person has filed the
 1115 proper application, as provided in subsection (c) of this section, it shall not be necessary to
 1116 make application thereafter for any year and the exemption shall continue to be allowed to
 1117 such person. It shall be the duty of any person granted the homestead exemption under
 1118 subsection (b) of this section to notify the governing authority of the City of Tucker, or the
 1119 designee thereof, in the event that person for any reason becomes ineligible for that
 1120 exemption.

1121 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state
 1122 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent
 1123 school district ad valorem taxes for educational purposes. The homestead exemption granted
 1124 by subsection (b) of this section shall be in addition to and not in lieu of any other
 1125 homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

1126 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years
 1127 beginning on or after January 1, 2017.

1128 **SECTION 5.11.**

1129 Homestead exemption; surviving spouses.

1130 (a) As used in this section, the term:

1131 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal
 1132 purposes levied by, for, or on behalf of the City of Tucker, including, but not limited to,
 1133 ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

1134 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of
 1135 the O.C.G.A., as amended.

1136 (3) "Unremarried surviving spouse" of a member of the armed forces includes the
 1137 unmarried widow or widower of a member of the armed forces who is receiving spousal
 1138 benefits from the United States Department of Veterans Affairs.

1139 (b) Any person who is a resident of the City of Tucker and who is an unremarried surviving
 1140 spouse of a member of the armed forces of the United States, which member has been killed
 1141 in or has died as a result of any war or armed conflict in which the armed forces of the United
 1142 States engaged, whether under United States command or otherwise, shall be granted a
 1143 homestead exemption from all City of Tucker ad valorem taxation for municipal purposes
 1144 in the amount of the greater of \$32,500.00 or the maximum amount which may be granted
 1145 to a disabled veteran under Section 2102 of Title 38 of the United States Code, as amended.
 1146 As of January 1, 2013, the maximum amount which may be granted to a disabled veteran
 1147 under Section 2102 of Title 38 of the United States Code, as amended, is \$50,000.00. The
 1148 exemption shall be on the homestead which the unremarried surviving spouse owns and
 1149 actually occupies as a residence and homestead. In the event such surviving spouse
 1150 remarries, such person shall cease to be qualified to continue the exemption under this Act
 1151 effective December 31 of the taxable year in which such person remarries. The value of all
 1152 property in excess of such exemption granted to such unremarried surviving spouse shall
 1153 remain subject to taxation.

1154 (c) In order to qualify for the exemption provided for in this Act, the unremarried surviving
 1155 spouse shall furnish to the governing authority of the City of Tucker, or the designee thereof,

1156 documents from the Secretary of Defense evidencing that such unremarried surviving spouse
1157 receives spousal benefits as a result of the death of such person's spouse who as a member
1158 of the armed forces of the United States was killed or died as a result of a war or armed
1159 conflict while on active duty or while performing authorized travel to or from active duty
1160 during such war or armed conflict in which the armed forces of the United States engaged,
1161 whether under United States command or otherwise, pursuant to the Survivor Benefit Plan
1162 under Subchapter II of Chapter 73 of Title 10 of the United States Code or pursuant to any
1163 preceding or subsequent federal law which provides survivor benefits for spouses of
1164 members of the armed forces who were killed or who died as a result of any war or armed
1165 conflict.

1166 (d) An unremarried surviving spouse filing for the exemption under this section shall be
1167 required to file with the governing authority of the City of Tucker, or the designee thereof,
1168 information relative to marital status and such other information which the governing
1169 authority of the City of Tucker, or the designee thereof, deems necessary to determine
1170 eligibility for the exemption. Each unremarried surviving spouse shall file for the exemption
1171 only once with the governing authority of the City of Tucker or the designee thereof. Once
1172 filed, the exemption shall automatically be renewed from year to year, except that the
1173 governing authority of the City of Tucker, or the designee thereof, may require annually that
1174 the holder of an exemption substantiate his or her continuing eligibility for the exemption.
1175 It shall be the duty of any person granted the homestead exemption under this section to
1176 notify the governing authority of the City of Tucker, or the designee thereof, in the event that
1177 person for any reason becomes ineligible for such exemption.

1178 (e) The exemption granted by this section shall be in lieu of and not in addition to any other
1179 exemption from ad valorem taxation for municipal purposes which is equal to or lower in
1180 amount than such exemption granted by this section. If the amount of any other exemption
1181 from ad valorem taxation for municipal purposes applicable to any resident qualifying under
1182 this section is greater than or is increased to an amount greater than the amount of the
1183 applicable exemption granted by this section, such other exemption shall apply and shall be
1184 in lieu of and not in addition to the exemption granted by this section.

1185 (f) The exemptions granted by this section shall apply to all tax years beginning on or after
1186 January 1, 2017.

1187 ARTICLE VI
 1188 GENERAL PROVISIONS
 1189 **SECTION 6.01.**
 1190 DeKalb county special services tax district.

1191 For the taxable years beginning on or after January 1, 2016, the adjusted ad valorem tax
 1192 millage rate and amount for service charges or fees for district services for the Tucker special
 1193 services tax district shall be 0 percent. This section is enacted pursuant to the authority
 1194 granted to the General Assembly under Section 1 of that local constitutional amendment
 1195 providing that certain municipalities in DeKalb County shall constitute special services tax
 1196 districts, Resolution Act No. 168; House Resolution No. 715-1916; Ga. L. 1978, p. 2468, to
 1197 control the subject matter of such local constitutional amendment. Municipal services
 1198 provided by DeKalb County for the City of Tucker shall be established through
 1199 intergovernmental agreements or established as otherwise authorized by statute.

1200 **SECTION 6.02.**
 1201 Referendum and initial election.

1202 (a) The election superintendent of DeKalb County shall call a special election for the
 1203 purpose of submitting this Act to the qualified voters of the proposed City of Tucker for
 1204 approval or rejection. The superintendent shall set the date of such election for the Tuesday
 1205 after the first Monday in November, 2015. The superintendent shall issue the call for such
 1206 election at least 60 days prior to the date thereof. The superintendent shall cause the date and
 1207 purpose of the election to be published once a week for two weeks immediately preceding
 1208 the date thereof in the official organ of DeKalb County. The ballot shall have written or
 1209 printed thereon the words:

1210 "() YES Shall the Act incorporating the City of Tucker in DeKalb County according
 1211 () NO to the charter contained in the Act and the homestead exemptions described
 1212 in the Act be approved?"

1213 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
 1214 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on
 1215 such question are for approval of the Act, it shall become of full force and effect as provided
 1216 in this charter, otherwise it shall be void and of no force and effect. The initial expense of
 1217 such election shall be borne by DeKalb County. Within two years after the elections if the
 1218 incorporation is approved, the City of Tucker shall reimburse DeKalb County for the actual
 1219 cost of printing and personnel services for such election and for the initial election of the
 1220 mayor and councilmembers pursuant to Section 2.02 of this charter. It shall be the duty of

1221 the superintendent to hold and conduct such election. It shall be his or her further duty to
 1222 certify the result thereof to the Secretary of State.

1223 (b) For the purposes of the referendum election provided for in subsection (a) of this section
 1224 and for the purposes of the special election of the City of Tucker to be held on the date of and
 1225 in conjunction with the 2016 presidential preference primary, the qualified electors of the
 1226 City of Tucker shall be those qualified electors of DeKalb County residing within the
 1227 corporate limits of the City of Tucker as described by Appendix A of this charter. At
 1228 subsequent municipal elections, the qualified electors of the City of Tucker shall be
 1229 determined pursuant to the authority of Chapter 2 of Title 21 of the O.C.G.A., the "Georgia
 1230 Election Code."

1231 (c) Only for the purposes of holding and conducting the referendum election provided for
 1232 by subsection (a) of this section and holding and conducting the special election of the City
 1233 of Tucker to be held on the date of and in conjunction with the 2016 presidential preference
 1234 primary, the election superintendent of DeKalb County is vested with the powers and duties
 1235 of the election superintendent of the City of Tucker and the powers and duties of the
 1236 governing authority of the City of Tucker.

1237 **SECTION 6.03.**

1238 Effective dates and transition.

1239 (a) The initial mayor and councilmembers shall take the oath of office the next business day
 1240 after certification of the election of such officers and by action of any four members of the
 1241 governing authority may, prior to the first day of the second month immediately following
 1242 the 2016 presidential preference primary, meet and take actions binding on the city.

1243 (b) A period of time will be needed for an orderly transition of various government functions
 1244 from DeKalb County to the City of Tucker. Accordingly, there shall be a two-year transition
 1245 period as allowed by law beginning at 12:01 A.M. on the first day of the second month
 1246 immediately following the 2016 presidential preference primary.

1247 (c) During such transition period, DeKalb County shall continue to provide within the
 1248 territorial limits of the city all government services and functions which DeKalb County
 1249 provided in 2015 and at the same actual direct cost and level of service, except to the extent
 1250 otherwise provided in this section; provided, however, that upon at least 30 days' prior
 1251 written notice to the governing authority of DeKalb County by the governing authority of the
 1252 City of Tucker, responsibility for any such service or function shall be transferred to the City
 1253 of Tucker. The governing authority of the City of Tucker shall determine the date of
 1254 commencement of collection of taxes, fees, assessments, fines and forfeitures, and other

1255 moneys within the territorial limits of the city and the date upon which the City of Tucker
1256 is considered removed from the special services tax district.

1257 (d) During the transition period, the governing authority of the City of Tucker may generally
1258 exercise any power granted by this charter or general law, except to the extent that a power
1259 is specifically and integrally related to the provision of a governmental service, function, or
1260 responsibility not yet provided or carried out by the city.

1261 (e) During the transition period, all ordinances of DeKalb County shall remain applicable
1262 within the territorial limits of the city unless otherwise amended, repealed, or replaced by the
1263 City of Tucker. Any transfer of jurisdiction to the City of Tucker during or at the end of the
1264 transition period shall not in and of itself abate any judicial proceeding pending in DeKalb
1265 County or the pending prosecution of any violation of any ordinance of DeKalb County.

1266 (f) During the transition period, the governing authority of the City of Tucker may at any
1267 time, without the necessity of any agreement by DeKalb County, commence to exercise its
1268 planning and zoning powers; provided, however, that the city shall give the county notice of
1269 the date on which the city will assume the exercise of such powers. Upon the governing
1270 authority of the City of Tucker commencing to exercise its planning and zoning powers, the
1271 Municipal Court of the City of Tucker shall immediately have jurisdiction to enforce the
1272 planning and zoning ordinances of the city. The provisions of this subsection shall control
1273 over any conflicting provisions of any other subsection of this section.

1274 (g) Effective upon the termination of the transition period, subsections (b) through (f) of this
1275 section shall cease to apply except for the last sentence of subsection (e) which shall remain
1276 effective. Effective upon the termination of the transition period, the City of Tucker shall
1277 be a full functioning municipal corporation and subject to all general laws of this state.

1278 **SECTION 6.04.**

1279 Directory nature of dates.

1280 It is the intention of the General Assembly that this Act be construed as directory rather than
1281 mandatory with respect to any date prescribed in this Act. If it is necessary to delay any
1282 action called for in this Act for providential cause or any other reason, it is the intention of
1283 the General Assembly that the action be delayed rather than abandoned. Any delay in
1284 performing any action under this Act, whether for cause or otherwise, shall not operate to
1285 frustrate the overall intent of this Act. Without limiting the generality of the foregoing, it is
1286 specifically provided that, if it is not possible to hold the referendum election provided for
1287 in Section 6.02 of this Act on the date specified in that section, then such referendum shall
1288 be held as soon thereafter as is reasonably practicable. If the referendum election provided
1289 for in Section 6.02 of this Act is conducted on or before the Tuesday after the first Monday

1290 in November, 2015, the special election for the initial members of the governing authority
1291 shall be conducted on the date specified in Section 2.02 of this Act. If the referendum
1292 election provided for under Section 6.02 of this Act is conducted after the Tuesday after the
1293 first Monday in November, 2015, then the special election for the initial members of the
1294 governing authority shall be held as soon thereafter as is reasonably practicable, and the
1295 commencement of the initial terms of office shall be delayed accordingly. If the first election
1296 provided for in Section 2.02 of this Act occurs after the date of the 2016 presidential
1297 preference primary, the city council shall be authorized to delay the dates otherwise specified
1298 in Section 6.03 of this Act.

1299 **SECTION 6.05.**

1300 Charter commission.

1301 No later than three years after the inception of the City of Tucker, the mayor and the city
1302 council shall call for a charter commission to review the city's experience and recommend
1303 to the General Assembly any changes to the charter. Members of the charter commission
1304 shall be appointed as follows: one member by the mayor, one member by the city council,
1305 and one member by each member of the Georgia House of Representatives and Georgia
1306 Senate whose district lies wholly or partially within the corporate boundaries of the City of
1307 Tucker. All members of the charter commission shall reside in the City of Tucker. The
1308 commission shall complete the recommendations within the time frame required by the city
1309 council.

1310 **SECTION 6.06.**

1311 Effective date.

1312 This Act shall become effective upon its approval by the Governor or upon its becoming law
1313 without such approval.

1314 **SECTION 6.07.**

1315 Repealer.

1316 All laws and parts of laws in conflict with this Act are repealed.

1317

APPENDIX A

1318

LEGAL DESCRIPTION

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CORPORATE LIMITS

1320

CITY OF TUCKER, DEKALB COUNTY, GEORGIA

1321

The corporate limits of the City of Tucker shall include the areas specified as follows unless
 1322 such areas are within the corporate limits of another municipality on the effective date of this
 1323 charter:

1324

Plan: Tucker-SD040-p2(corp)-2015

1325

Plan Type: Local

1326

Administrator: SD040

1327

User: bak

1328

District TUCKER

1329

DeKalb County

1330

VTD: 089BF - BROCKETT ELEMENTARY

1331

VTD: 089BH - BROCKETT

1332

VTD: 089EC - EMBRY HILLS

1333

021809:

1334

3008 3009

1335

VTD: 089HA - HAMBRICK ELEM

1336

021910:

1337

3018

1338

VTD: 089HG - HUGH HOWELL

1339

VTD: 089IA - IDLEWOOD ELEM

1340

VTD: 089JB - JOLLY ELEM

1341

021805:

1342

3018

1343

022009:

1344

2001

1345

VTD: 089LV - LAWRENCEVILLE HIGH SCHOOL

1346

VTD: 089MH - MIDVALE ELEM

1347

021809:

1348

5000 5001 5002 5003 5004 5005 5009 5010 5011 5012 5013 5014

1349

5015

1350 021810:
 1351 2000 2001 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016
 1352 2017 2018
 1353 VTD: 089MK - MONTREAL
 1354 VTD: 089MM - MEMORIAL NORTH
 1355 021910:
 1356 3021
 1357 022009:
 1358 3014
 1359 VTD: 089MW - MIDVALE ROAD
 1360 021809:
 1361 5018 5019 5020 5022
 1362 021810:
 1363 2002 2003 2004 2005 2006 2019 2020 2021
 1364 VTD: 089NC - NORTH HAIRSTON
 1365 021910:
 1366 1000 2000
 1367 VTD: 089PF - PLEASANTDALE ELEM
 1368 021812:
 1369 1005 1006
 1370 VTD: 089PK - PLEASANTDALE ROAD
 1371 021814:
 1372 1007
 1373 VTD: 089RD - REHOBOTH
 1374 021704:
 1375 1007 1008 1009 1010 1011 1012 1024 1025 2005 2006 2007 2008
 1376 2009 2010 2011 2012 2013 2014
 1377 VTD: 089SD - STN MTN ELEMENTARY
 1378 021907:
 1379 1001 1008 1009 1010 1020
 1380 VTD: 089SH - SMOKE RISE
 1381 VTD: 089SI - STN MTN MIDDLE
 1382 VTD: 089SJ - STONE MILL ELEM
 1383 021911:
 1384 2002
 1385 021913:
 1386 3000 3002 3003

1387 VTD: 089TF - TUCKER

1388 VTD: 089TH - TUCKER LIBRARY

1389 For the purposes of this description, the term "VTD" shall mean and describe the same
1390 geographical boundaries as provided in the report of the Bureau of the Census for the United
1391 States decennial census of 2010 for the State of Georgia. The separate numeric designations
1392 in the description which are underneath a VTD heading shall mean and describe individual
1393 Blocks within a VTD as provided in the report of the Bureau of the Census for the United
1394 States decennial census of 2010 for the State of Georgia.

1395

APPENDIX B

1396

LEGAL DESCRIPTION

1397

COUNCIL DISTRICTS

1398

CITY OF TUCKER, DEKALB COUNTY, GEORGIA

1399

Plan: Tucker-SD040-p2(dist)-2015

1400

Plan Type: Local

1401

Administrator: SD040

1402

User: bak

1403

District 001

1404

DeKalb County

1405

VTD: 089BF - BROCKETT ELEMENTARY

1406

021805:

1407

3000

1408

021806:

1409

1000 1001 1002 1003 1007 1008 1009 1015 1016 1017 1018 1019

1410

1021 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022

1411

2023 2024 2025 2027 2028 2031 3017

1412

021912:

1413

1004 1005

1414

VTD: 089HA - HAMBRICK ELEM

1415

021910:

1416

3018

1417

VTD: 089HG - HUGH HOWELL

1418

VTD: 089IA - IDLEWOOD ELEM

1419

021910:

1420

3006 3007 3008 3009 3010 3011 3012 3013 3014 3015 3016 3017

1421

3019 3020

1422

VTD: 089MM - MEMORIAL NORTH

1423

021910:

1424

3021

1425

022009:

1426

3014

1427

VTD: 089NC - NORTH HAIRSTON

1428 021910:
 1429 1000 2000
 1430 VTD: 089SD - STN MTN ELEMENTARY
 1431 021907:
 1432 1001 1008 1009 1010 1020
 1433 VTD: 089SH - SMOKE RISE
 1434 VTD: 089SI - STN MTN MIDDLE
 1435 021805:
 1436 3002 3003 3007 3008
 1437 021806:
 1438 2026 2029 2030
 1439 021907:
 1440 3026
 1441 021910:
 1442 3000 3001 3002 3003 3004 3005
 1443 021911:
 1444 2000 2001
 1445 021913:
 1446 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012
 1447 1013 1015 1016 1017 1018 2001 2002 2003 2004 2005 2006 2007
 1448 2008 2009 2010 2011
 1449 VTD: 089SJ - STONE MILL ELEM
 1450 021911:
 1451 2002
 1452 021913:
 1453 3000 3002 3003

 1454 District 002
 1455 DeKalb County
 1456 VTD: 089BF - BROCKETT ELEMENTARY
 1457 021805:
 1458 1009 1010 1013 1014 1016 1017 3001 3009
 1459 021806:
 1460 1004 1006 1010 1011 1012 1013 1014 1020 1022
 1461 VTD: 089BH - BROCKETT
 1462 VTD: 089IA - IDLEWOOD ELEM

1463 021805:
 1464 3006 3010 3011 3012 3013 3014 3015 3016 3017 3023 3024 3025
 1465 3026 3027 3028
 1466 022009:
 1467 3006 3009
 1468 VTD: 089JB - JOLLY ELEM
 1469 021805:
 1470 3018
 1471 022009:
 1472 2001
 1473 VTD: 089MK - MONTREAL
 1474 021704:
 1475 1000 1001 1002 1003 1004 1005 1006
 1476 022001:
 1477 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011
 1478 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023
 1479 1024 1025 1026 1027 1028 1029
 1480 022007:
 1481 1000 1011 1012
 1482 022009:
 1483 1014 1015 2000
 1484 VTD: 089RD - REHOBOTH
 1485 021704:
 1486 1007 1008 1009 1010 1011 1012 1024 1025 2005 2006 2007 2008
 1487 2009 2010 2011 2012 2013 2014
 1488 VTD: 089SI - STN MTN MIDDLE
 1489 021805:
 1490 3004 3005 3020 3021 3022

 1491 District 003
 1492 DeKalb County
 1493 VTD: 089EC - EMBRY HILLS
 1494 021809:
 1495 3008 3009
 1496 VTD: 089LV - LAWRENCEVILLE HIGH SCHOOL
 1497 VTD: 089MH - MIDVALE ELEM

1498 021809:
 1499 5000 5001 5002 5003 5004 5005 5009 5010 5011 5012 5013 5014
 1500 5015
 1501 021810:
 1502 2000 2001 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016
 1503 2017 2018
 1504 VTD: 089MK - MONTREAL
 1505 021704:
 1506 2000 2001 2002 2003 2004
 1507 VTD: 089MW - MIDVALE ROAD
 1508 021809:
 1509 5018 5019 5020 5022
 1510 021810:
 1511 2002 2003 2004 2005 2006 2019 2020 2021
 1512 VTD: 089PF - PLEASANTDALE ELEM
 1513 021812:
 1514 1005 1006
 1515 VTD: 089PK - PLEASANTDALE ROAD
 1516 021814:
 1517 1007
 1518 VTD: 089TF - TUCKER
 1519 VTD: 089TH - TUCKER LIBRARY

1520 For the purposes of this plan (Tucker-SD040-p2(dist)-2015):

- 1521 (1) The term "VTD" shall mean and describe the same geographical boundaries as
 1522 provided in the report of the Bureau of the Census for the United States decennial census
 1523 of 2010 for the State of Georgia. The separate numeric designations in a district
 1524 description which are underneath a VTD heading shall mean and describe individual
 1525 Blocks within a VTD as provided in the report of the Bureau of the Census for the United
 1526 States decennial census of 2010 for the State of Georgia;
- 1527 (2) Except as otherwise provided in the description of any district, whenever the
 1528 description of any district refers to a named city, it shall mean the geographical
 1529 boundaries of that city as shown on the census maps for the United States decennial
 1530 census of 2010 for the State of Georgia;
- 1531 (3) Any part of the City of Tucker which is not included in any district described in this
 1532 plan (Tucker-SD040-p2(dist)-2015) shall be included within that district contiguous to

1533 such part which contains the least population according to the United States decennial
1534 census of 2010 for the State of Georgia;

1535 (4) Any part of the City of Tucker which is described in this plan
1536 (Tucker-SD040-p2(dist)-2015) as being included in a particular district shall nevertheless
1537 not be included within such district if such part is not contiguous to such district. Such
1538 noncontiguous part shall instead be included within that district contiguous to such part
1539 which contains the least population according to the United States decennial census of
1540 2010 for the State of Georgia; and

1541 (5) Any part of the City of Tucker which is described in this plan but is in the corporate
1542 limits of another municipality on the effective date of this Act shall nevertheless not be
1543 included in any of the districts described in the plan.

1544

APPENDIX C

1545

CERTIFICATE AS TO MINIMUM STANDARDS

1546

FOR INCORPORATION OF A NEW MUNICIPAL CORPORATION

1547

I, Representative Billy Mitchell, Georgia State Representative from the 88th District and the author of this bill introduced at the 2015 session of the General Assembly of Georgia, which grants an original municipal charter to the City of Tucker, do hereby certify that this bill is in compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A. in that the area embraced within the original incorporation in this bill is in all respects in compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A. This certificate is executed to conform to the requirements of Code Section 36-31-5 of the O.C.G.A.

1548

1549

1550

1551

1552

1553

1554

1555

So certified this _____ day of _____, 2015.

1556

1557

Honorable Billy Mitchell

1558

Representative, 88th District

1559

Georgia State House of Representatives