

# Dunwoody Charter Commission

## Final Report

Submitted to:

Senator Fran Millar  
Representative Mike Jacobs  
Representative Tom Taylor

October 11, 2013





**CHARTER COMMISSION**  
41 Perimeter Center East, Suite 250  
Dunwoody, GA 30346

October 11, 2013

VIA ELECTRONIC MAIL: [fran.millar@senate.ga.gov](mailto:fran.millar@senate.ga.gov)  
REGULAR MAIL

Senator Fran Millar  
319-B Coverdell Legislative Office Building  
Atlanta, Georgia 30334

RE: City of Dunwoody Resolution 2013-04-15

Dear Senator Millar:

The Dunwoody Charter Commission is pleased to present its Final Report in complete fulfillment of the enabling Resolution, referenced above.

The Final Report has several sections. The abstract provides a brief overview of the processes the Commission followed. Next we provide a one-page legislative summary, followed by an item-by-item list of recommended changes with the reason for the proposed change. In addition to substantive changes, we identified a small number of scrivener's errors that should be corrected.

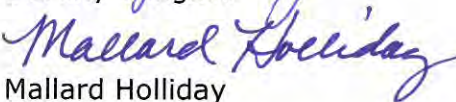
Several appendixes are attached. A "redlined" version showing our recommended changes to the actual Charter is shown as Appendix A. We have provided a brief outline of a number of potentially meritorious ideas that were either beyond our scope, or didn't have sufficient support among Commission members for incorporation at this time. Should another Charter Commission be constituted, these ideas should be made available to them to further their discussions.

The Dunwoody Charter Commission respectfully transmits to you our recommendations as approved by the majority of the Commission. We are happy to meet with you to answer questions, provide background information, or to provide detailed testimony, should the need for such arise.

Sincerely,

  
L. Max Lehmann, Chair

  
Beverly Wingate

  
Mallard Holliday

  
Robert Wittenstein, Vice-Chair

  
Rick Otness

cc: Mayor and City Council

Max Lehmann Chairman

Mallard Holliday  
Rick Otness

Robert Wittenstein Vice Chairman  
Beverly Wingate





**CHARTER COMMISSION**  
41 Perimeter Center East, Suite 250  
Dunwoody, GA 30346

October 11, 2013

VIA ELECTRONIC MAIL: [mike.jacobs@house.ga.gov](mailto:mike.jacobs@house.ga.gov)  
REGULAR MAIL

Representative Mike Jacobs  
131 State Capitol  
Atlanta, Georgia 30334

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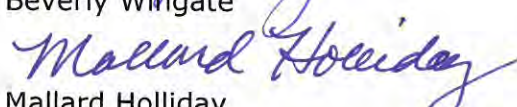
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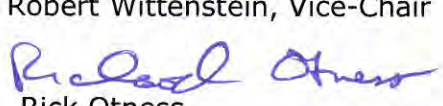
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Beverly Wingate

  
Mallard Holliday

  
Robert Wittenstein, Vice-Chair

  
Rick Otness

cc: Mayor and City Council

Max Lehmann Chairman

Mallard Holliday  
Rick Otness

Robert Wittenstein Vice Chairman  
Beverly Wingate



**CHARTER COMMISSION**  
41 Perimeter Center East, Suite 250  
Dunwoody, GA 30346

October 11, 2013

VIA ELECTRONIC MAIL: [tom.taylor@house.ga.gov](mailto:tom.taylor@house.ga.gov)  
REGULAR MAIL

Representative Tom Taylor  
401-F Coverdell Legislative Office Building  
Atlanta, Georgia 30334

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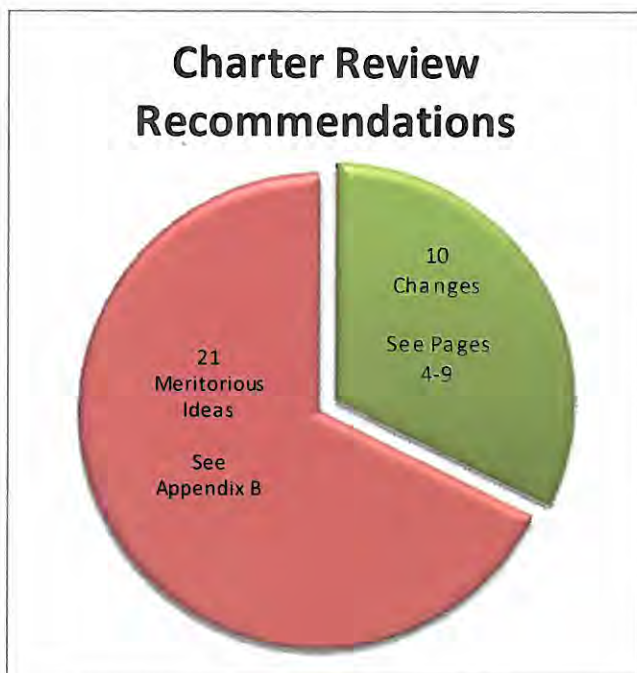
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## Abstract

The Charter Commission, "Commission," reviewed the City of Dunwoody Charter from May through September, 2013 reviewing each Charter Section in linear order, first to last, to avoid missing any Section. We adopted the "rule of finality," thus assuring once a matter was decided it could not come up for reconsideration without compelling new evidence to support a change. That rule was applied to Commissioners and the public alike.

The City Clerk publicized and advertised all meetings according to applicable Open Meetings laws. Commission meetings were open to the public and we encouraged involvement by providing larger meeting facilities, as needed. Public comments are shown in Appendix C.

The Commission adopted Rosenberg's Rules of Order, an abbreviated, yet robust form of Robert's Rules of Order, especially suited for work-groups. This change enabled the Commission to effectively run its meetings without any member having deep knowledge of Robert's Rules of Order.



The graph at the left numerically depicts all "presentments" and those that are included as recommended changes to the Charter. This report presents these changes in a linear section order, as agreed by the Charter Commission.

Several observations are clear to the Commission for future Charter Review. We recommend that one or two public meetings are held to educate the public on the scope of Charter Commission business. Early into our process we observed that many citizens were speaking at our meetings about topics that were not under the purview of the Commission.

As well, Charter Reviews ought to occur independently of any City election to avoid undue political influence to the process. We researched Palm Coast, Florida, incorporated 1999, to find their Final Report is due well in advance of any City elections.

Finally, the Review process benefited the City of Dunwoody by focusing attention on the need for better and more frequent communication between the City, elected officials, and the public. The City of Dunwoody is currently contemplating its first ever "Town Hall," without any Charter changes.



## Legislative Summary

### City of Dunwoody – 2013 Charter Review Commission

(Seven changes listed in Charter Section order, two scrivener's changes on reverse side)

#### **Vote Charter Section**

##### **3-2 1.03(37)(b) - Powers and construction. (Inextricably linked to Section 5.13)**

*Description of Change/Rationale:* This tax-neutral change allows Council to seek alternatives to DeKalb Fire/Rescue services. The Commission is concerned that Council has the right to take over Fire Service but without any means to fund the transfer. The current Charter requires a City-wide referendum to change the 3.04 millage rate cap, but it does not have a provision for a tax-neutral transfer of millage from the County. Recommended changes allow the City to assume the current Fire Service millage as a separate fund without requiring a City-wide referendum. A number of residents who provided public comment felt that the current Charter, which allows the City to take on Fire Service but requires a City-wide vote, should remain unchanged.

##### **5-0 2.14(b) – Boards, commissions, and authorities.**

Mayor or Council Member may not serve as an *ex officio* member of any board or commission.

*Description of Change/Rationale:* Resolves current problem when Mayor or Council Member appear at meetings holding themselves out as non-voting members of the committees. Observed during the long range Comprehensive Plan process.

##### **5-0 2.15(a) – Ordinance form; procedures.**

Applicable only at the first meeting of the year, removes the exclusion to the two-read requirement which circumvents normal proposed ordinance changes.

*Description of Change/Rationale:* No valid reason to exempt the requirement for proposed ordinances to have two reads. Keep exemption for emergency purposes.

##### **5-0 3.01(a)(2) – Powers and duties of the Mayor.**

Two members of Council needed to add an Agenda item.

*Description of Change/Rationale:* Enhances finality by preventing previously decided matters to reappear on the Agenda.

##### **5-0 3.01(b) – Power and duties of the Mayor.**

Clarify the role of the City Manager to change appropriations within a department.

*Description of Change/Rationale:* Mimics current procedure as a practical method to move small fund amounts within each Department.

##### **5-0 3.04(15) – City Manager; powers and duties enumerated.**

Clarify the role of the Mayor and City Council to transfer appropriations between departments.

*Description of Change/Rationale:* Mimics current procedure as a practical method to move funds between departments.

##### **5-0 5.13 Fire Service HOST Tax Credit – New Section. (Inextricably linked to Section 1.03(37)(b))**

Section 5.13 provides for a HOST-like homestead exemption for Fire Services, modeled on Section 5.12. Ensures that homeowners do not experience an unintended tax increase when HOST credit is no longer applied to Fire Services.

*Description of Change/Rationale:* The change allows for a fund transfer from DeKalb to the City at a rate not to exceed the previous five year rate, averaged.

**Legislative Summary**  
**City of Dunwoody – 2013 Charter Review Commission**  
*(Two scrivener's changes)*

**5-0 3.09 – City Clerk.**

Scrivener's change to replace "may" with "shall."

Description of Change/Rationale: Mimics language in Section 3.08 City Attorney;  
*City cannot function without a City Clerk.*

**5-0 4.02(b) – Judge(s).**

Scrivener's change to remove unused position of "judge pro tempore" from each section.

Description of Change/Rationale: Duplicates Sections 4.02(a) no distinguishing features between "judge" and "judge pro tempore."



## Recommended Changes to Dunwoody City Charter

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**Section:** 1.03(37)(b) Powers and construction.

(Inextricably linked to Section 5.13)

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**For-Against:** 3 (Holliday, Wingate, Wittenstein) - 2 (Lehmann, Otness)

**Sentiment:** Insert a new 1.03(37)(b) to read as follows: "Notwithstanding the provisions of subsection (A) above, the Mayor and City Council shall be authorized to create a Special Service District fund for provisions of Fire and Rescue services and to levy ad valorem taxes on real property not to exceed the average of said taxes levied by DeKalb County for the provision of the same services for the previous five years prior to the cutover of the services."

**Pro:** The Mayor and Council have the authority to decide for all "City" services whether to provide the service itself, contract out the service, or sign an intergovernmental agreement to have the service provided by another government entity.

This includes fire and EMS services.

Today, fire and EMS services are provided by DeKalb County under an intergovernmental agreement.

Unlike the general fund, which is funded by a wide variety of taxes and fees, fire and EMS are funded entirely by the property tax millage rate. Because of the current millage rate cap in the Charter, it would be impossible for the City to choose any other option for service provision. This gives the County a "monopoly" on providing fire service.

The changes adopted here allow for a transfer of funds from the County special tax district to the City at a rate not to exceed the average of the rate charged for the five years prior to the cutover of service.

**Con:** 1.03(37)(b) The City has the right to establish any and all services whether directly or through an intergovernmental agreement. However, they are bound to provide it within the 3.04 millage rate. The Charter currently requires any funding from property taxes in excess of the 3.04 millage cap to be approved by the voters. This breaks the covenant that the City Council must seek voter approval to have the City collect more than the 3.04 millage in property taxes. Council is free to establish service without voter approval,

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but only if it can do so within the current 3.04 millage cap established by Charter.

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**Section:**        **2.14 (b) Boards, commissions, and authorities.**

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**For-Against:**   5-0

**Sentiment:**    Remove provision allowing the Mayor or any Council Member to serve on any board or commission as an *ex officio* member.

**Pro:**            This provision has created a problem when Council Members have shown up at committee meetings and act like non-voting members of the committees. The biggest issue was the long range Comprehensive Plan, but whenever Council Members have used this prerogative, it has been a problem.

**Con:**            None presented

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**Section:**        **2.15(a) Ordinance form; procedures.**

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**For-Against:**   5-0

**Sentiment:**    Remove the sentence that allows the two-read requirement for a proposed ordinance change to be circumvented at the first meeting of each year.

**Pro:**            We could not identify a compelling reason to allow an annual exemption from the requirement that proposed ordinances should have a first and second read. We believe this was originally implemented to allow ordinances to be passed at the first Council meeting after incorporation. It is no longer necessary and could be potentially abused. (We recommend keeping the exemption for emergency ordinances.)

**Con:**            None presented

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**Section:**        **3.01(a)(2) Powers and duties of the Mayor.**

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**For-Against:**   5-0

**Sentiment:**    Change the number of Council Members needed to add an item to the agenda from one to two.

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<b>Pro:</b>	This presented an issue in the past when a Council Member put the same item on the agenda week after week. If there are not two Council Members out of seven who want to discuss it, it probably shouldn't be on the agenda.
<b>Con:</b>	This should apply only to issues being raised a second time but not to issues being raised for the first time.
<b>Section:</b>	<b>3.01(b) Powers and duties of the Mayor.</b>
<b>For-Against:</b>	5-0
<b>Sentiment:</b>	Change sentence to read <i>"transfer appropriations between departments..."</i> not <i>"transfer appropriations within a department....."</i>
<b>Pro:</b>	This proposed change mimics current practice and clarifies the role of the Mayor and Council to control the overall budget and the movement of funds between departments.
<b>Con:</b>	None presented
<b>Section:</b>	<b>3.04(15) City Manager; powers and duties enumerated.</b>
<b>For-Against:</b>	5-0
<b>Sentiment:</b>	Proposed new change: <i>"The City Manager shall have the authority to transfer appropriations within a department."</i>
<b>Pro:</b>	This proposed change mimics current practice and is really the only practical way for the City Manager to manage the budget, with the help of the department heads. Moving small amounts of money around within the police department should be something the Chief of Police and the City Manager should be able to do.
<b>Con:</b>	None presented
<b>Section:</b>	<b>3.09 City Clerk.</b>
<b>For-Against:</b>	5-0
<b>Sentiment:</b>	Change from "The Mayor <b>may</b> appoint a City Clerk...." to "The Mayor <b>shall</b> appoint a City Clerk..."



<b>Pro:</b>	This will mimic the language used in the City Attorney section above it. The Mayor should not have the option not to appoint a City Clerk.
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<b>Con:</b>	None presented
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<b>Section:</b>	<b>4.02(b) Judge(s).</b>
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<b>For-Against:</b>	5-0
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<b>Sentiment:</b>	Remove Section: 4.02(b), creation of the judge pro tempore position. Change Section: 4.02(c) to read "Before entering on duties of his or her office, each judge shall take an oath...." and to change Section: 4.02(d) to read "the Judge(s) shall serve for a term.....," removing "judge pro tempore from each Section:.
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<b>Pro:</b>	Duplicative with 4.02(a), especially since there doesn't seem to be a distinguishing feature between "judge" and "judge pro tempore."
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<b>Con:</b>	None presented
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<b>Section:</b>	<b>5.13 Homestead exemption; Fire Special Tax District HOST equivalent.</b>
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**(Inextricably linked to Section 1.03(37)(b))**

<b>For-Against:</b>	5-0
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<b>Sentiment:</b>	<p>Add a new Section 5.13. Homestead Exemption; Fire Special Tax District HOST Equivalent, to read as follows:</p> <p>"Sec. 5.13. Homestead Exemption; Fire Special Tax District HOST equivalent.</p> <p>(a) As used in this section, the term:</p> <p>(1) "Ad valorem taxes for Fire Services" means all ad valorem taxes for the purpose of providing Fire Services levied by, for, or on behalf of the City of Dunwoody, including, but not limited to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.</p> <p>(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.</p> <p>(b) In the event that the City of Dunwoody assumes responsibility for the transfer of Fire Services from DeKalb County, each resident of the City of Dunwoody is granted an annual exemption on that person's homestead from City of Dunwoody ad valorem taxes in a fixed amount equal to the HOST tax credit provided to DeKalb County residences who participate in the Fire Services Special Tax</p>
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District at a level equal to the average percentage credit for the five years immediately preceding the cutover of Fire Services. The value of that property in excess of such exempted amount shall remain subject to taxation.

(c) A person shall receive the homestead exemption granted by subsection (b) of this section provided that the person or person's agent has filed or files an application with the governing authority of the City of Dunwoody in accordance with section 5.10(c) or 5.12(c) giving such information relative to receiving such exemption as will enable the governing authority of the City of Dunwoody, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. No additional homestead exemption form or application is required to grant the homestead exemption under this section.

(d) The exemption shall be automatically renewed from year to year as long as the owner occupies the residence as a homestead. After a person has filed the proper application it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Dunwoody, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

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

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning in the year in which the City of Dunwoody assumes responsibility for the transfer of Fire Services from DeKalb County. In the event that the transfer of service does not coincide with taxable year-end, the homestead exemption shall be prorated in the first year in an amount equal to the percent of the first year in which Dunwoody provides Fire Services."

**Pro:**

In the event that the City takes over Fire and EMS service, these changes preserve the HOST tax credit currently in place for homeowners. Section 5.13 establishes a new homestead exemption for homeowners that mimics the HOST tax credit. This will prevent an inadvertent tax increase.

**Con:**

None presented.

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<b>Section</b>	<b>6.05 Charter Commission.</b>
<b>For-Against:</b>	5-0
<b>Sentiment:</b>	Article 6: Call for another Charter Commission to occur in 2020, seven years from now.
<b>Pro:</b>	After some additional time passes we may find that additional changes are worth considering. Arrange to have the Charter Commission do its work in a non-election year.
<b>Con:</b>	Some Commission members thought a Commission should meet every 5 years; others thought a new Commission should be commissioned in 10 years. We also noted that the Charter is amendable by either City Council or state legislature, so there may be no need for a Charter Commission to meet again.

## Appendix B – Proposed Charter

### PART I CHARTER <sup>[1]</sup>

ARTICLE I. - CREATION, INCORPORATION, POWERS

ARTICLE II. - GOVERNMENT STRUCTURE, ELECTIONS, AND LEGISLATIVE BRANCH

ARTICLE III. - EXECUTIVE BRANCH

ARTICLE IV. - MUNICIPAL COURT

ARTICLE V. - FINANCE AND FISCAL

ARTICLE VI. - GENERAL PROVISIONS

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FOOTNOTE(S):

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--- (1) ---

**Editor's note—** Printed herein is the Charter of the City of Dunwoody, Georgia, as adopted by 2008 Ga. Laws (Act No. 385), page 3536. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original act. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. The title, enactment, severability, repealer, transitional, ratification, publication and effective date provisions have been omitted, and where a section has been amended or repealed by a later provision, only the current language has been printed. Additions made for clarity are indicated by brackets. **(Back)**



## **ARTICLE I. CREATION, INCORPORATION, POWERS**

Sec. 1.01. Incorporation.

Sec. 1.02. Corporate boundaries.

Sec. 1.03. Powers and construction.

Sec. 1.04. Exercise of powers.

Sec. 1.05. Tourism, conventions, and trade shows.

### **Sec. 1.01. Incorporation.**

This Act shall constitute the Charter of the City of Dunwoody, Georgia. The City of Dunwoody, 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 Dunwoody" 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.

### **Sec. 1.02. Corporate boundaries.**

The boundaries of the City of Dunwoody shall be those set forth and described in Appendix A of this Charter, and said 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.

### **Sec. 1.03. Powers and construction.**

- (a) This City shall have all powers possible for a City to have under the present or future Constitution and laws of this state as fully and completely as though they were specifically enumerated in this Act. This City shall have all the powers of self-government not otherwise prohibited by this Act or by general law.
- (b) The powers of this City shall be construed liberally in favor of the City. The specific mention or failure to mention particular powers shall not be construed as limiting in any way the powers of this City. These powers shall include, but not be limited to, the following:
  - (1) *Animal regulations.* To regulate and license or to prohibit the keeping or running at large of animals and fowl, and to provide for the impoundment of same if in violation of any ordinance or lawful order; to provide for the disposition by sale, gift, or humane destruction of animals and fowl when

not redeemed as provided by ordinance; and to provide punishment for violation of ordinances enacted hereunder;

- (2) *Appropriations and expenditures.* To make appropriations for the support of the government of the City; to authorize the expenditure of money for any purposes authorized by this Charter and for any purpose for which a municipality is authorized by the laws of the State of Georgia; and to provide for the payment of expenses of the City;
- (3) *Building regulation.* To regulate and to license the erection and construction of buildings and all other structures; to adopt building, housing, plumbing, electrical, gas, and heating and air conditioning codes; and to regulate all housing and building trades to the extent permitted by general law;
- (4) *Business regulation and taxation.* To levy and to provide for the collection of regulatory fees and taxes on privileges, occupations, trades, and professions as authorized by Title 48 of the O.C.G.A. or other such applicable laws as are or may hereafter be enacted; to permit and regulate the same; to provide for the manner and method of payment of such regulatory fees and taxes; and to revoke such permits after due process for failure to pay any City taxes or fees;
- (5) *Condemnation.*
  - (A) To condemn property inside the corporate limits of the City for present or future use and for any public purpose deemed necessary by the City Council utilizing procedures enumerated in Title 22 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted;
  - (B) The municipality shall have the right to condemn and cause to be remediated or removed any building, structure, or existing condition within its corporate limits that is dangerous to life, limb, or property, by reasons of decay, dilapidation, or unsanitary condition. Nothing in this subparagraph shall be construed to relieve the municipality of any duty to give owners or interested persons reasonable notice and opportunity to remedy the situation. Nothing in this subparagraph shall be construed as relieving the municipality of liability to any interested person for damages to person or property taken or destroyed in furtherance of this subparagraph. This subparagraph shall not be construed as authorizing the doing of any act or thing contrary to the Constitution of this state and the policy of the general laws of this state. The municipality shall have authority to adopt reasonable ordinances and resolutions for the purpose of carrying out this subparagraph;
- (6) *Contracts.* To enter into contracts and agreements with other governmental entities and with private persons, firms, and corporations;
- (7) *Emergencies.* To establish procedures for determining and proclaiming that an emergency situation exists within or without the City, and to make and carry out all reasonable provisions deemed necessary to deal with or meet

such an emergency for the protection, safety, health, or well-being of the citizens of the City;

- (8) *Environmental protection.* To protect and preserve the natural resources, environment, and vital areas of the City, the region, and the state through the enactment of ordinances that preserve and improve air quality, restore and maintain water resources, the control of erosion and sedimentation, manage storm water and establish a storm-water utility, manage solid and hazardous waste, and provide other necessary or beneficial actions for the protection of the environment. These ordinances shall include, without limitation, ordinances that protect, maintain, and enhance the public health, safety, environment and general welfare and minimize public and private losses due to flood conditions in flood hazard areas, as well as protect the beneficial uses of floodplain areas for water quality protection, stream bank and stream corridor protection, wetlands preservation and ecological and environmental protection. Such ordinances may: require that users vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction; restrict or prohibit uses which are dangerous to health, safety, and property due to flooding or erosion hazards, or which increase flood heights, velocities, or erosion; control filling, grading, dredging and other development which may increase flood damage or erosion; prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; limit the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters; and protect the storm-water management, water quality, stream bank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas;
- (9) *Ethics.* To adopt ethics ordinances and regulations governing such things as, but not limited to, the conduct of municipal elected officials, appointed officials, contractors, vendors and employees, establishing procedures for ethics complaints, and setting forth penalties for violations of such rules and procedures;
- (10) *Fire regulations.* To fix and establish fire limits and from time to time to extend, enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with general law, relating to both fire prevention and detection and to fire fighting; and to prescribe penalties and punishment for violations thereof;
- (11) *Garbage fees.* To levy, fix, assess, and collect a garbage, refuse, and trash collection and disposal and other sanitary service charge, tax, or fee for such services as may be necessary in the operation of the City from all individuals, firms, and corporations residing in or doing business therein benefiting from such services; to enforce the payment of such charges, taxes, or fees; and to provide for the manner and method of collecting such service charges, taxes, or fees;



- (12)*General health, safety, and welfare.* To define, regulate, and prohibit any act, practice, conduct, or use of property which is detrimental to health, sanitation, cleanliness, welfare, and safety of the inhabitants of the City, and to provide for the enforcement of such standards;
- (13)*Gifts.* To accept or refuse gifts, donations, bequests, or grants from any source for any purpose related to powers and duties of the City and the general welfare of its citizens, on such terms and conditions as the donor or grantor may impose;
- (14)*Health and sanitation.* To prescribe standards of health and sanitation and to provide for the enforcement of such standards;
- (15)*Homestead exemption.* To establish and maintain procedures for offering homestead exemptions to residents of the City and maintaining current homestead exemptions of residents of the City as authorized by Act of the General Assembly;
- (16)*Jail sentences.* To provide that persons given jail sentences in the City's court may work out such sentences in any public works or on the streets, roads, drains, and other public property in the City; to provide for commitment of such persons to any jail; to provide for the use of pretrial diversion and any alternative sentencing allowed by law; or to provide for commitment of such persons to any County work camp or County jail by agreement with the appropriate County officials;
- (17)*Motor vehicles.* To regulate the operation of motor vehicles and exercise control over all traffic, including parking upon or across the streets, roads, alleys, and walkways of the City;
- (18)*Municipal agencies and delegation of power.* To create, alter, or abolish departments, boards, offices not specified in this Charter, commissions, authorities, and agencies of the City, and to confer upon such agencies the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same;
- (19)*Municipal debts.* To appropriate and borrow money for the payment of debts of the City and to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized by this Charter or the laws of the State of Georgia;
- (20)*Municipal property ownership.* To acquire, dispose of, lease, and hold in trust or otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or outside the property limits of the City;
- (21)*Municipal property protection.* To provide for the preservation and protection of property and equipment of the City and the administration and use of same by the public; and to prescribe penalties and punishment for violations thereof;
- (22)*Municipal utilities.* To acquire, lease, construct, operate, maintain, sell, and

dispose of public utilities, including but not limited to a system of waterworks, sewers and drains, sewage disposal, storm-water management, gasworks, electricity generating plants, cable television and other telecommunications, transportation facilities, public airports, and any other public utility; to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties; and to provide for the withdrawal of service for refusal or failure to pay the same;

- (23)*Nuisance*. To define a nuisance and provide for its abatement whether on public or private property;
- (24)*Penalties*. To provide penalties for violation of any ordinances adopted pursuant to the authority of this Charter and the laws of the State of Georgia;
- (25)*Planning and zoning*. To provide comprehensive City planning for City land use, signage and outside advertising, and development by zoning; and to provide subdivision regulation and the like as the City Council deems necessary and reasonable to ensure a safe, healthy, and aesthetically pleasing community;
- (26)*Police and fire protection*. To exercise the power of arrest through duly appointed police officers, and to establish, operate, or contract for a police and a fire-fighting agency;
- (27)*Public hazards; removal*. To provide for the destruction and removal of any building or other structure that is or may become dangerous or detrimental to the public;
- (28)*Public improvements*. To provide for the acquisition, construction, building, operation, maintenance, or abolition of public ways, parks and playgrounds, recreational facilities, cemeteries, public buildings, libraries, public housing, parking facilities, and charitable, cultural, educational, recreational, conservation, sport, detentional, penal, and medical institutions, agencies, and facilities; to provide any other public improvements inside the corporate limits of the City and to regulate the use of public improvements; and for such purposes, property may be acquired by condemnation under Title 22 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted;
- (29)*Public peace*. To provide for the prevention and punishment of loitering, disorderly conduct, drunkenness, riots, and public disturbances;
- (30)*Public transportation*. To organize and operate such public transportation systems as are deemed beneficial;
- (31)*Public utilities and services*. To grant franchises or make contracts for, or impose taxes on, public utilities and public service companies; and to prescribe the rates, fares, regulations, and standards and conditions of service applicable to the service to be provided by the franchise grantee or contractor, insofar as not in conflict with valid regulations of the Public Service Commission;
- (32)*Regulation of roadside areas*. To prohibit or regulate and control the erection, removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any and all other structures or obstructions upon or adjacent to



the rights-of-way of streets and roads or within view thereof, within or abutting the corporate limits of the City; and to prescribe penalties and punishment for violation of such ordinances;

- (33)*Employee benefits.* To provide and maintain a retirement plan, insurance, and such other employee benefits for appointed officers and employees of the City, as are determined by the City Council;
- (34)*Roadways.* To lay out, open, extend, widen, narrow, establish or change the grade of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and walkways within the corporate limits of the City; to grant franchises and rights-of-way throughout the streets and roads and over the bridges and viaducts for the use of public utilities; and to require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands and to impose penalties for failure to do so;
- (35)*Solid waste disposal.* To provide for the collection and disposal of garbage, rubbish, and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper, and other recyclable materials and to provide for the sale of such items;
- (36)*Special assessments.* To levy and provide for the collection of special assessments to cover the costs for any public improvements, subject to referendum;
- (37)*Taxes; ad valorem.* To levy and provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation; provided, however, that:
- (A) The millage rate imposed for ad valorem taxes on real property shall not exceed 3.04 unless a higher limit is recommended by resolution of the City Council and approved by a majority of the qualified voters of the City of Dunwoody voting on the issue;
  - (B) For all years, the fair market value of all property subject to taxation shall be determined according to the tax digest of DeKalb County, as provided in Code Section 48-5-352 of the O.C.G.A.; and notwithstanding the provisions of subsection (A) above, the Mayor and City Council shall be authorized to create a Special Service District Fund for provisions of Fire and Rescue services and to levy ad valorem taxes on real property not to exceed the average of said taxes levied by DeKalb County for the provision of the same services for the previous five years prior to the cutover of the services.
- (38)*Taxes: other.* To levy and collect such other taxes and fees as may be allowed now or in the future by law;
- (39)*Taxicabs.* To regulate and license vehicles operated for hire in the City; to

limit the number of such vehicles; to require the operators thereof to be licensed; to require public liability insurance on such vehicles in the amounts to be prescribed by ordinance; to inspect said vehicles and mandate standards of safety and cleanliness; and to regulate the parking of such vehicles;

- (40) *Tourism, conventions, and trade shows.* To provide for the structure, operation, or management of the Dunwoody Convention and Visitors Bureau created pursuant to Section 1.05 of this Charter and to authorize the City of Dunwoody to contract with private sector nonprofit organizations or other governmental agencies to promote tourism, conventions, and trade shows;
- (41) *Urban redevelopment.* To organize and operate an urban redevelopment program; and
- (42) *Other powers.* To exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the City and its inhabitants; to exercise all implied powers necessary or desirable to carry into execution all powers granted in this Charter as fully and completely as if such powers were fully stated herein; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia; and any listing of particular powers in this Charter shall not be held to be exclusive of others or restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

#### **Sec. 1.04. Exercise of powers.**

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

#### **Sec. 1.05. Tourism, conventions, and trade shows.**

The Dunwoody Convention and Visitors Bureau is hereby created.



## **ARTICLE II. GOVERNMENT STRUCTURE, ELECTIONS, AND LEGISLATIVE BRANCH**

- Sec. 2.01. City Council creation; number; election.
- Sec. 2.02. Mayor and Council Members; terms and qualifications for office.
- Sec. 2.03. Vacancy; filling of vacancies; suspensions.
- Sec. 2.04. Nonpartisan elections.
- Sec. 2.05. Election votes.
- Sec. 2.06. Applicability of general laws; qualifying; other provisions.
- Sec. 2.07. Compensation and expenses.
- Sec. 2.08. Inquiries and investigations.
- Sec. 2.09. Meetings, oath of office, and Mayor pro tempore.
- Sec. 2.10. Quorum; voting.
- Sec. 2.11. General power and authority of the City Council.
- Sec. 2.12. Administrative and service departments.
- Sec. 2.13. Prohibitions.
- Sec. 2.14. Boards, commissions, and authorities.
- Sec. 2.15. Ordinance form; procedures.
- Sec. 2.16. Submission of ordinances to the City clerk.

### **Sec. 2.01. City Council creation; number; election.**

- (a) The legislative authority of the government of the City of Dunwoody, except as otherwise specifically provided in this Act, shall be vested in a City Council of which the Mayor shall be a voting member.
- (b)
  - (1) The City Council of Dunwoody, Georgia shall consist of six members, plus the Mayor.
  - (2) There shall be three Council districts, designated Council Districts 1 through 3, as described in Appendix B of this Act, which is attached to and made a part of this Charter of the City of Dunwoody.
  - (3) One Council Member shall be elected from each of the three Council districts and shall hold Council Posts 1, 2, and 3, respectively. Each person desiring to offer as a candidate for Council Member for such posts shall designate the Council post for which he or she is offering. Council Members for such posts

shall be elected by a majority vote of the qualified electors of the respective Council districts voting at the elections of the City. In the event that no candidate for a Council post obtains a majority vote of the qualified electors of the Council district voting in the election, then a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election for such Council post will be included in the run-off election. The person receiving the highest number of votes of the qualified electors of the Council district voting at such run-off election shall be elected. Each candidate for election to the City Council must reside in the district he or she seeks to represent.

- (4) Three Council Members shall be elected from the City at large and shall represent Council Posts 4, 5, and 6. Candidates offering for election to Council Post 4 shall reside in Council District 1, candidates offering for election to Council Post 5 shall reside in Council District 2, and candidates offering for election to Council Post 6 shall reside in Council District 3. Each person desiring to offer as a candidate for Council Member for such posts shall designate the Council post for which he or she is offering. Council Members for such posts shall be elected by a majority vote of the qualified electors of the entire City voting at the elections of the City. In the event that no candidate for a Council post obtains a majority vote of the qualified electors of the entire City voting in the election, then a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election for such Council post will be included in the run-off election. The person receiving the highest number of votes of the qualified electors of the City voting at such run-off election shall be elected.
- (c) With the exception of the initial terms set forth in subsection (d) of this section, Council Members shall be elected to terms of four years and until their successors are elected and qualified on a staggered basis in alternate election cycles such that every two years three Council Members are up for election.
- (d) In order to assure staggered elections of the Council Members, in the first election of the City Council the terms for the candidates elected for Council Posts 1, 2, and 3 shall expire upon the administration of the oath of office to their successors elected in the regular elections held in November 2009 as provided in subsection (b) of Section 2.02. The terms for the candidates elected for Council Posts 4, 5, and 6 shall expire upon the administration of the oath of office to their successors elected in the regular elections held in November 2011 as provided in subsection (b) of Section 2.02. Thereafter, a successor to each Council Member shall be elected at the November election immediately preceding the end of such Council Member's term of office and the term of each Council Member shall expire upon the administration of the oath of office to his or her successor.
- (e) With the exception of the initial term of office, a Mayor of the City of Dunwoody, with the powers and duties specified herein, shall be elected to a term of four years and until his or her successor is elected and qualified. The



Mayor shall be elected by a majority vote of the qualified electors of the City at large voting at the elections of the City. In the event that no candidate for Mayor obtains a majority vote of the qualified electors of the City at large voting at the elections of the City, then a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election shall be included in the run-off election and the candidate receiving the highest number of votes in the runoff of the qualified electors of the City at large voting at such runoff shall be elected. The term of the first elected Mayor shall expire upon the administration of the oath of office to his or her successor elected in the regular election held in November 2011, as provided in subsection (b) of Section 2.02. Thereafter, a successor to each Mayor shall be elected at the November election immediately preceding the end of such Mayor's term of office and the term of each Mayor shall expire upon the administration of the oath of office to his or her successor.

**Sec. 2.02. Mayor and Council Members; terms and qualifications for office.**

- (a) For all elections subsequent to the first election, the Mayor and Council Members shall serve for terms of four years and until their terms shall expire upon the administration of the oath of office to their successors. No person shall be eligible to serve as Mayor or Council Member unless that person shall have been a resident of the City of Dunwoody for a continuous period of at least 12 months immediately prior to the date of the election for Mayor or Council Member, shall continue to reside therein during that person's period of service, and shall continue to be registered and qualified to vote in municipal elections of the City of Dunwoody. In addition to the above requirements, no person shall be eligible to serve as a Council Member representing a Council district unless that person has been a resident of the district such person seeks to represent for a continuous period of at least six months immediately prior to the date of the election for Council Member and continues to reside in such district during that person's period of service.
- (b) An election shall be held on the third Tuesday in September 2008, to elect the first Mayor and City Council. At such election, the first Mayor and Council shall be elected to serve for the initial terms of office specified in Sections 2.01(d) and 2.01(e). Thereafter, the time for holding regular municipal elections shall be on the Tuesday next following the first Monday in November of each odd-numbered year beginning in 2009.
- (c) The number of successive terms an individual may hold a position as a Council Member shall be unlimited.
- (d) The number of successive terms an individual may hold the position of Mayor shall be limited to two terms. An individual who serves as Mayor for either one term or two consecutive terms, may stand for subsequent elections provided the individual is not the Mayor at time of such elections.

### **Sec. 2.03. Vacancy; filling of vacancies; suspensions.**

- (a) Elected officials of the City cannot hold other elected or public offices. The elected offices of the City's government will become vacant upon the member's death, resignation, removal, or forfeiture of office. The following shall result in an elected City official forfeiting his or her office:
  - (1) Violating the provisions of this Charter;
  - (2) Being convicted of, or pleading guilty or "no contest" to, a felony or a crime of moral turpitude; or
  - (3) Failing to attend one-third of the regular meetings of the Council in a three-month period without being excused by the Council.
- (b) The office of Mayor shall become vacant upon the incumbent's death, resignation, forfeiture of office, or removal from office in any manner authorized by this Act or the general laws of the State of Georgia. A vacancy in the office of Mayor shall be filled for the remainder of the unexpired term by a special election if such vacancy occurs 12 months or more prior to the expiration of the term of that office. If such vacancy occurs within 12 months of the expiration of the term of that office, the City Council or those members remaining shall appoint a successor for the remainder of the term. This provision shall also apply to a temporary vacancy created by the suspension from office of the Mayor.
- (c) The office of a Council Member shall become vacant upon the incumbent's death, resignation, forfeiture of office, or removal from office in any manner authorized by this Act or the general laws of the State of Georgia. A vacancy in the office of a Council Member 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 Council Member.

### **Sec. 2.04. Nonpartisan elections.**

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

### **Sec. 2.05. Election votes.**

The candidates for Mayor and City Council who receive a majority vote of the qualified electors of the City at large voting at the elections of the City shall be elected to a term of office.



#### **Sec. 2.06. Applicability of general laws; qualifying; other provisions.**

All elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended or otherwise provided by law. Except as otherwise provided by this Act, 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.

#### **Sec. 2.07. Compensation and expenses.**

The annual salary of the Mayor shall be \$16,000.00 and the annual salary for each Council Member shall be \$12,000.00. 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 Council Member shall be provided an annual expense allowance of \$3,000.00 for the reimbursement of expenses actually and necessarily incurred by the Mayor and Council Members in carrying out their duties as elected officials of the City.

#### **Sec. 2.08. Inquiries and investigations.**

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.

#### **Sec. 2.09. Meetings, oath of office, and Mayor pro tempore.**

- (a) The City Council shall meet on the first 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 Council Members 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 [Council Member or Mayor as the case may be] of the City of Dunwoody, and will to the best of my ability support and defend the Constitution of the United States, the Constitution of Georgia, and the Charter, ordinances, and regulations of the City of Dunwoody. 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 Dunwoody 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 Dunwoody to the best of my ability without fear, favor, affection, reward, or expectation thereof".

- (b) Following the induction of the Mayor and Council Members, the City Council, by a majority vote of the Council Members, shall elect a Council Member 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 Council Members, chosen by the Council Members present, shall be clothed with all the rights and privileges of the Mayor as described herein 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 prescribed by ordinance. The City Council may recess any regular meeting and continue such meeting on any day or hour it may fix and may transact any business at such continued meeting as may be transacted at any regular meeting.
- (e) Special meetings of the City Council may be held on the call of either the Mayor and one Council Member or three Council Members. Notice of such special meetings shall be delivered to all Council Members, the Mayor, and the City Manager personally, by registered mail, or by electronic means at least 24 hours in advance of the meeting. Such notice shall not be required if the Mayor, all Council Members, and City Manager are present when the special meeting is called. Such notice of any special meeting may be waived by the Mayor, a Council Member, or the City Manager in writing before or after such a meeting and attendance at the meeting shall also constitute a waiver of notice. The notice of such special meeting shall state what business is to be transacted at the special meeting. Only the business stated in the call may be transacted at the special meeting.

#### **Sec. 2.10. Quorum; voting.**

- (a) Four Council Members shall constitute a quorum and shall be authorized to transact business for the City Council. The Mayor shall be counted toward the making of a quorum. Voting on the adoption of ordinances shall be taken by



voice vote and the yeas and nays shall be recorded in the minutes, but on the request of any member there shall be a roll-call vote. In order for any ordinance, resolution, motion, or other action of the City Council to be adopted, the measure must receive at least three affirmative votes and must receive the affirmative votes of a majority of those voting. No Council Member, nor the Mayor, shall abstain from voting on any matter properly brought before the City Council for official action except when such Council Member has a reason which is disclosed in writing prior to or at the meeting and made a part of the minutes. If any Council Member or the Mayor is present and eligible to vote on a matter and refuses to do so for a reason he or she will not disclose he or she shall be deemed to have voted with the majority of the votes of the other Council Members on the issue involved; provided further that if there is a tie in the vote of the voting Council Members, then the Mayor and each Council Member shall be required to vote unless he or she discloses a reason for not voting. The Mayor shall have one vote on all matters brought before the Council.

- (b) The following types of actions require an ordinance in order to have the force of law:
  - (1) Adopt or amend an administrative code or establish, alter or abolish a department, office not specified in this Charter, or agency;
  - (2) Provide for fine or other penalty;
  - (3) Levy taxes;
  - (4) Grant, renew, or extend a franchise;
  - (5) Regulate a rate for a public utility;
  - (6) Authorize the borrowing of money;
  - (7) Convey, lease or encumber City land;
  - (8) Regulate land use and development; and
  - (9) Amend or repeal an ordinance already adopted.
- (c) The City Council shall establish by ordinance procedures for convening emergency meetings. In an emergency, an ordinance can be passed without notice or hearings if the City Council passes the ordinance by three-fourths vote; provided, however, that the City Council cannot in an emergency meeting:
  - (1) Levy taxes;
  - (2) Grant, renew, or extend a franchise;
  - (3) Regulate a rate for a public utility; or
  - (4) Borrow money.

### **Sec. 2.11. General power and authority of the City Council.**

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

### **Sec. 2.12. Administrative and service departments.**

- (a) Except for the office of City Manager and the elected 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 hereinafter created or established; may provide that the same person shall fill any number of offices and positions of employment; and may transfer or change the functions and duties of offices, positions of employment, departments, and agencies of the City.
- (b) The operations and responsibilities of each department now or hereafter established in the City shall be distributed among such divisions or bureaus as may be provided by ordinance of the City Council. Each department shall consist of such officers, employees, and positions as may be provided by this Charter or by ordinance and shall be subject to the general supervision and guidance of the Mayor and City Council.

### **Sec. 2.13. Prohibitions.**

- (a) No elected official, appointed officer, or employee of the City or any agency or political entity to which this Charter applies shall knowingly:
  - (1) Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties or which would tend to impair the independence of his or her judgment or action in the performance of official duties;
  - (2) Engage in or accept private employment or 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;

- (3) Disclose confidential information concerning the property, government, or affairs of the governmental body by which engaged without proper legal authorization or use such information to advance the financial or other private interest of himself or herself or others, except as required by law;
  - (4) Accept any valuable gift, whether in the form of service, loan, object, or promise, from any person, firm, or corporation which to his or her knowledge is interested, directly or indirectly, in any manner whatsoever in business dealings with the governmental body by which he or she is engaged; "Valuable" shall be an amount determined by the City Council; provided, however, that the amount shall not exceed \$100.00;
  - (5) Represent other private interests in any action or proceeding against this City or any portion of its government; or
  - (6) Vote or otherwise participate in the negotiation or in the making of any contract with any business or entity in which he or she, or members of his or her immediate family, has a financial interest.
- (b) Any elected official, appointed officer, or employee who has any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the City shall disclose such private interest to the City Council. "Private financial interest" shall include interests of immediate family. The Mayor or any Council Member who has a private interest in any matter pending before the City Council shall disclose in writing such private interest and such disclosure shall be entered on the records of the City Council, and he or she shall disqualify himself or herself from participating in any decision or vote relating thereto. Any elected official, appointed officer, or employee of any agency or political entity to which this Charter applies who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within such entity shall disclose such private interest to the governing body of such agency or entity.
- (c) No elected official, appointed officer, or employee of the City or any agency or entity to which this Charter applies shall use property owned by such governmental entity for personal benefit, convenience, or profit, except in accordance with policies promulgated by the City Council or the governing body of such agency or entity.
- (d) Any violation of this section which occurs with the knowledge, express or implied, of a party to a contract or sale shall render said contract or sale voidable at the option of the City Council.
- (e) Except as authorized by law, no member of the City Council shall hold any other elective City office or be employed by any City or County government during the term for which elected.

#### **Sec. 2.14. Boards, commissions, and authorities.**

- (a) All members of boards, commissions, and authorities of the City shall be appointed by the Mayor subject to confirmation by the City Council for such terms of office and such manner of appointment as provided by ordinance, except where other appointing authority, term of office, or manner of appointment is prescribed by this Charter or by applicable state law.
- (b) No member of any board, commission, or authority of the City shall hold any elective office in the City. ~~Council Members and the Mayor, however, may serve as ex-officio members of such boards, commissions, or authorities, without a vote.~~
- (c) Any vacancy in office of any member of a board, commission, or authority of the City shall be filled for the unexpired term in the manner prescribed for original appointment, except as otherwise provided by this Charter or any applicable law of the State of Georgia.
- (d) No member of any board, commission, or authority shall assume office until he or she shall have executed and filed with the designated officer of the City an oath obligating himself or herself to faithfully and impartially perform the duties of his or her office, such oath to be prescribed by ordinance of the City Council and administered by the Mayor or a judicial officer authorized to administer oaths.
- (e) Any member of a board, commission, or authority may be removed from office for cause by a vote of a majority of the Council Members in accordance with state laws.
- (f) Members of boards, commissions, and authorities may receive such compensation and expenses in the performance of their official duties as prescribed by ordinance.
- (g) Except as otherwise provided by this Charter or by applicable state law, each board, commission, or authority of the City government shall elect one of its members as chairperson and one member as vice chairperson for terms of one year and may elect as its secretary one of its own members or may appoint as secretary an employee of the City. Each board, commission, or authority of the City government may establish such bylaws, rules, and regulations not inconsistent with this Charter, ordinances of the City, or applicable state law as it deems appropriate and necessary for the conduct of its affairs, copies of which shall be filed with the designated officer of the City.

#### **Sec. 2.15. Ordinance form; procedures.**

- (a) Every proposed ordinance and resolution shall be introduced in writing and the City Council shall have the authority to approve, disapprove, or amend the same. A resolution may be passed at the time it is offered, but an ordinance shall not be adopted until the title of said ordinance shall have been read at two



City Council meetings, provided that the beginning of said meetings be not less than 24 hours nor more than 60 days apart. This requirement of two readings shall not apply to emergency ordinances, to ordinances passed during the first 90 days from the date on which the City begins operation ~~to ordinances adopted at the first business meeting of the City Council in a calendar year~~, or to ordinances adopted at the first meeting of the initial City Council as elected under subsection (b) of Section 2.02. The catchlines of sections of this Charter or any ordinance printed in boldface type, italics, or otherwise, are intended as mere catchwords to indicate the contents of the section, and:

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

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

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

#### **Sec. 2.16. Submission of ordinances to the City clerk.**

- (a) Every ordinance, resolution, and other action adopted by the City Council shall be presented to the City clerk within 15 days of its adoption or approval. The City clerk shall record upon the ordinance the date of its delivery from the City Council.
- (b) An ordinance or resolution that has been passed by the City Council shall become effective on the date the ordinance is passed by the City Council or on such other date as may be specified in the ordinance.

### **ARTICLE III. EXECUTIVE BRANCH**

- Sec. 3.01. Powers and duties of the Mayor.
- Sec. 3.02. City Manager; appointment and qualification.
- Sec. 3.03. City Manager; chief administrative officer.
- Sec. 3.04. City Manager; powers and duties enumerated.
- Sec. 3.05. City Council interference with administration.
- Sec. 3.06. City Manager; removal.
- Sec. 3.07. Acting City Manager.
- Sec. 3.08. City attorney.
- Sec. 3.09. City clerk.
- Sec. 3.10. Tax collector.
- Sec. 3.11. City accountant.
- Sec. 3.12. City internal auditor.
- Sec. 3.13. Consolidation of functions.
- Sec. 3.14. Position classification and pay plans; employment at will.

#### **Sec. 3.01. Powers and duties of the Mayor.**

(a) The Mayor shall:

- (1) Preside over all meetings of the City Council;
- (2) Set the agenda for meetings of the City Council after receiving input from members of the City Council, the City Manager, and the public; provided, however that an additional item shall be added to the agenda upon the written request of any two members ~~member~~ of the City Council;
- (3) Serve as the ceremonial head of the City and as its official representative to federal, state, and local governmental bodies and officials;
- (4) Sign all orders, checks, and warrants for payment of money within a level of authorization as established by the City Council;
- (5) Execute all contracts, deeds, and other obligations of the City within a level of authorization as established by the City Council;
- (6) Vote in all matters before the City Council as provided in Section 2.10(a) of this Charter;
- (7) Make all appointments of City officers as provided by this Charter, subject to



confirmation by the City Council;

- (8) Serve in a part-time capacity and be compensated accordingly; and
  - (9) Perform any other duties and exercise any other powers required by state or federal law or authorized by a duly adopted ordinance that is not in conflict with this Charter.
- (b) The Mayor shall have the authority to transfer appropriations between departments ~~within a department~~, fund, service, strategy or organizational unit but only with approval of the City Council.
- (c) The Mayor shall have the authority to certify that a supplemental appropriation is possible due to unexpected revenue increases but only with approval of the City Council.
- (d) The Mayor shall have all of the powers specifically granted to the Mayor elsewhere in this Charter regardless of whether such powers are enumerated in this Section 3.01

### **Sec. 3.02. City Manager; appointment and qualification.**

The Mayor shall appoint, subject to confirmation by the City Council, an officer whose title shall be the "City Manager." The City Manager shall be appointed without regard to political beliefs and solely on the basis of his or her education and experience in the accepted competencies and practices of local government management.

### **Sec. 3.03. City Manager; chief administrative officer.**

The City Manager shall be the chief administrative officer of the government of the City. The City Manager must 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 said officer has jurisdiction.

### **Sec. 3.04. City Manager; powers and duties enumerated.**

The City Manager shall have the power, and it shall be his or her duty to:

- (1) See that all laws and ordinances are enforced;
- (2) 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;
- (3) Remove employees appointed and employed under Section 3.04(2), without the consent of the City Council and without assigning any reason therefor;

- (4) 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;
- (5) 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 chair; provided, however, that regardless of the decision of the meeting chair 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;
- (6) Recommend to the City Council, after prior review and comment by the Mayor, for adoption such measures as the City Manager may deem necessary or expedient;
- (7) 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;
- (8) Make and execute all lawful contracts on behalf of the City as to matters within the City Manager's level of authorization as established by the City Council to the extent that such contracts are funded in the City's budget, except such as may be otherwise provided by law; provided, however, that no contract purchase or obligation requiring a budget amendment shall be valid and binding until after approval of the City Council;
- (9) Sign all orders, checks, and warrants for payment of money within the City Manager's level of authorization as established by the City Council to the extent that such contracts are funded in the City's budget, except such as may be otherwise provided by law; provided, however, that no such order, check, or warrant requiring a budget amendment shall be valid and binding until after approval of the City Council;
- (10) Act as budget officer to prepare and submit to the City Council, after review and comment by the Mayor, prior to the beginning of each fiscal year a budget of proposed expenditures for the ensuing year, showing in as much detail as practicable the amounts allotted to each department of the City government and the reasons for such estimated expenditures;
- (11) Keep the City Council at all times fully advised as to the financial condition and needs of the City;
- (12) Make a full written report to the City Council on the fifteenth of each month showing the operations and expenditures of each department of the City government for the preceding month, and a synopsis of such reports shall be published by the City clerk;
- (13) Fix all salaries and compensation of City employees in accordance with the



City budget and the City pay and classification plan; and

(14) Perform such other duties as may be prescribed by this Charter or required by ordinance or resolution of the City Council.

(15) The City Manager shall have the authority to transfer appropriations within a department.

### **Sec. 3.05. City Council interference with administration.**

Except for the purpose of inquiries and investigations under Section 2.08 of this Charter, the City Council or its members shall deal with City officers and employees who are subject to the direction or supervision of the City Manager solely through the City Manager, and neither the City Council nor its members shall give orders to any such officer or employee, either publicly or privately.

### **Sec. 3.06. City Manager; removal.**

- (a) The Mayor and City Council may remove the City manager from office in accordance with the following procedures:
  - (1) The City Council shall adopt by affirmative vote of a majority of all its members a preliminary resolution removing the City Manager and may suspend the City Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the City Manager;
  - (2) Within five days after a copy of the resolution is delivered to the City Manager, he or she may file with the City Council a written request for a public hearing. This hearing shall be held at a City Council meeting not earlier than 15 days nor later than 30 days after the request is filed. The City Manager may file with the City Council a written reply not later than five days before the hearing; and
  - (3) The City Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of four of its members at any time after five days from the date when a copy of the preliminary resolution was delivered to the City Manager, if he or she has not requested a public hearing, or at any time after the public hearing if he or she has requested one.
- (b) The City Manager shall continue to receive his or her salary until the effective date of a final resolution of his or her removal. The action of the City Council in suspending or removing the City Manager shall not be subject to review by any court or agency.
- (c) If the City Manager is suspended in accordance with subsection (a) of this section or becomes disabled and is unable to carry out the duties of the office or if the City Manager dies, the acting City Manager shall perform the duties of



the City Manager until the City Manager's disability is removed or until the City Manager is replaced. Removal of the City Manager because of disability shall be carried out in accordance with the provisions of subsection (a) of this section.

### **Sec. 3.07. Acting City Manager.**

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

### **Sec. 3.08. City attorney.**

The Mayor shall appoint the City attorney(s) together with such assistant City attorneys as may be deemed appropriate subject to confirmation by the City Council and shall provide for the payment of such attorney(s) for services rendered to the City. The rates or salary paid to any City attorney or assistant City attorney shall be approved in advance by the City Council. The City attorney(s) shall be responsible for representing and defending the City in all litigation in which the City is a party; may be the prosecuting officer in the municipal court; shall attend the meetings of the City Council as directed; shall advise the City Council, Mayor, other officers, and employees of the City concerning legal aspects of the City's affairs; and shall perform such other duties as may be required by virtue of his or her position as City attorney. The City attorney(s) shall review all contracts of the City but shall not have the power to bind the City.

### **Sec. 3.09. City clerk.**

The Mayor ~~shall~~ ~~may~~ appoint a City clerk subject to confirmation by the City Council to keep a journal of the proceedings of the City Council; to maintain in a safe place all records and documents pertaining to the affairs of the City; and to perform such duties as may be required by law or ordinance or as the Mayor or City Manager may direct.

### **Sec. 3.10. Tax collector.**

The Mayor may appoint a tax collector subject to confirmation by the City Council to collect all taxes, licenses, fees, and other moneys belonging to the City subject to the provisions of this Charter and the ordinances of the City; and the tax collector shall diligently comply with and enforce all general laws of Georgia relating

to the collection, sale, or foreclosure of taxes by municipalities.

**Sec. 3.11. City accountant.**

The Mayor may appoint a City accountant subject to confirmation by the City Council to perform the duties of an accountant.

**Sec. 3.12. City internal auditor.**

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

**Sec. 3.13. Consolidation of functions.**

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

**Sec. 3.14. Position classification and pay plans; employment at will.**

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



## ARTICLE IV. MUNICIPAL COURT

Sec. 4.01. Creation.

Sec. 4.02. Judge(s).

Sec. 4.03. Convening.

Sec. 4.04. Jurisdiction; powers.

Sec. 4.05. Certiorari.

Sec. 4.06. Rules for court.

### Sec. 4.01. Creation.

There is established a court to be known as the Municipal Court of the City of Dunwoody which shall have jurisdiction and authority to try offenses against the laws and ordinances of said City and to punish for a violation of the same. Such court shall have the power to enforce its judgments by the imposition of such penalties as may be provided by law, including ordinances of the City; to punish witnesses for nonattendance and to punish also any person who may counsel or advise, aid, encourage, or persuade another whose testimony is desired or material in any proceeding before said court to go or move beyond the reach of the process of the court; to try all offenses within the territorial limits of the City constituting traffic cases which, under the laws of Georgia, are placed within the jurisdiction of municipal courts to the extent of, and in accordance with, the provisions of such laws and all laws subsequently enacted amendatory thereof. Said court shall be presided over by the judge of said court. In the absence or disqualification of the judge, the judge pro tempore shall preside and shall exercise the same powers and duties as the judge when so acting.

### Sec. 4.02. Judge(s).

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

~~(b) The judge pro tempore shall serve as requested by the judge, shall have the same qualifications as the judge, shall be nominated by the Mayor subject to approval of the City Council and shall take the same oath as the judge.~~

~~(b) Before entering on duties of his or her office, each judge the judge and judge~~



~~pro-tempore~~ shall take an oath before an officer duly authorized to administer oaths in this state declaring that he or she will truly, honestly, and faithfully discharge the duties of his or her office to the best of his or her ability without fear, favor, or partiality. The oath shall be entered upon the minutes of the City Council.

(~~dc~~) The judges, ~~or judge pro-tempore~~, shall serve for a term of four years but may be removed from the position by a two-thirds vote of the entire membership of the City Council or shall be removed upon action taken by the State Judicial Qualifications Commission for:

- (1) Willful misconduct in office;
- (2) Willful and persistent failure to perform duties;
- (3) Habitual intemperance;
- (4) Conduct prejudicial to the administration of justice which brings the judicial office into disrepute; or
- (5) Disability seriously interfering with the performance of duties, which is, or is likely to become, of a permanent character.

#### **Sec. 4.03. Convening.**

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

#### **Sec. 4.04. Jurisdiction; powers.**

- (a) The municipal court shall try and punish for crimes against the City of Dunwoody and for violation of its ordinances. The municipal court may fix punishment for offenses within its jurisdiction to the fullest extent allowed by state law.
- (b) The municipal court shall have authority to recommend to the City Council for approval a schedule of fees to defray the cost of operation.
- (c) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as security for appearances of persons charged with violations. Whenever any person shall give bail for his or her appearance and shall fail to appear at the time fixed for trial, the bond shall be forfeited to the judge presiding at such time and an execution issued thereon by serving the defendant and his or her sureties with a rule nisi at least two days before a hearing on the rule nisi. In the event that cash or property is accepted in lieu of bond for security for the appearance of a defendant at trial, and if such defendant fails to appear at the time and place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited to the City of Dunwoody, or the property so deposited

shall have a lien against it for the value forfeited.

- (d) The municipal court shall have the authority to bind prisoners over to the appropriate court when it appears, by probable cause, that a state law has been violated.
- (e) The municipal court shall have the authority to administer oaths and to perform all other acts necessary or proper to the conduct of said court.
- (f) The municipal court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summons, subpoena, and warrants which may be served as executed by any officer as authorized by this Charter or by state law.
- (g) The municipal court is specifically vested with all of the judicial jurisdiction and judicial powers throughout the entire area of the City of Dunwoody granted by state laws generally to municipal courts, and particularly by such laws as authorize the abatement of nuisances.

#### **Sec. 4.05. Certiorari.**

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

#### **Sec. 4.06. Rules for court.**

With the approval of the City Council, the judge(s) shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court.



## **ARTICLE V. FINANCE AND FISCAL**

Sec. 5.01. Fiscal year.

Sec. 5.02. Preparation of budgets.

Sec. 5.03. Submission of operating budget to City Council.

Sec. 5.04. Action by City Council on budget.

Sec. 5.05. Procurement and property management.

Sec. 5.06. Purchasing.

Sec. 5.07. Audits.

Sec. 5.08. Homestead exemption; freeze.

Sec. 5.09. Homestead exemption; senior citizens; disabled.

Sec. 5.10. Homestead exemption; general.

Sec. 5.11. Homestead exemption; surviving spouses.

Sec. 5.12. Homestead exemption; one millage equivalent.

| Sec. 5.13. Homestead exemption; Fire Special Tax District HOST equivalent.

### **Sec. 5.01. Fiscal year.**

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

### **Sec. 5.02. Preparation of budgets.**

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

### **Sec. 5.03. Submission of operating budget to City Council.**

- (a) On or before a date fixed by the City Council, but no later than the first day of the ninth month of the fiscal year currently ending, the City Manager shall, after input, review and comment by the Mayor, submit to the City Council a proposed operating budget and capital budget for the ensuing fiscal year. The budget shall be accompanied by a message from the Mayor and City manager containing a statement of the general fiscal policies of the City, the important features of the budget, explanations of major changes recommended for the



next fiscal year, a general summary of the budget, and such other comments and information as they may deem pertinent. The operating budget, capital budget, the budget message, and all supporting documents shall be filed in the office of the City Manager and shall be open to public inspection.

- (b) Beginning in the third year of the City's operation, the City Manager and Mayor are required to present to the City Council a budget which is balanced in projected spending and revenues.
- (c) Prior to passage of the budget, the City Council shall hold a special public hearing at which the budget will be presented and public comment on the budget will be solicited. The date, time and place of the special public hearing shall be announced no less than 30 days prior to the scheduled date for such hearing.
- (d) All unencumbered balances of appropriations in the current operating budget at the end of the fiscal year shall lapse into the unappropriated surplus or reserves of the fund or funds from which such appropriations were made. When a supplemental appropriation is certified by the City Manager to exist, these appropriations can be spent during the current fiscal year following passage of a supplemental appropriation ordinance.

#### **Sec. 5.04. Action by City Council on budget.**

- (a) The City Council may amend the operating budget or capital budget proposed by the City Manager in accordance with Section 5.03(a), except that the budget, as finally amended and adopted, must provide for all expenditures required by law or by other provisions of this Charter and for all debt service requirements for the ensuing fiscal year; and the total appropriations from any fund shall not exceed the estimated fund balance, reserves, and revenues constituting the fund availability of such fund.
- (b) The City Council shall adopt a budget on or before the first day of the eleventh month of the fiscal year currently ending. If the City Council fails to adopt the budget by the prescribed deadline, the operating budget and capital budget proposed by the Mayor and City Manager shall be adopted without further action by the City Council.

#### **Sec. 5.05. Procurement and property management.**

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

- (1) It is drawn or submitted and reviewed by the City attorney and, as a matter of course, is signed by the City attorney to indicate such drafting or review; and

- (2) It is made or authorized by the City Council and such approval is entered in the City Council journal of proceedings.

**Sec. 5.06. Purchasing.**

The City Council shall by ordinance prescribe procedures for a system of centralized purchasing for the City.

**Sec. 5.07. 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.

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

property in excess of such exempted amount shall remain subject to taxation.

- (c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Dunwoody, or the designee thereof, giving such information relative to receiving such exemption as will enable the governing authority of the City of Dunwoody, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Dunwoody, or the designee thereof, shall provide application forms for this purpose.
- (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year as long as the owner occupies the residence as a homestead. After a person has filed the proper application as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year, and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Dunwoody, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.
- (e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, County ad valorem taxes for County purposes, or County or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.
- (f) The exemption granted by subsection (b) of this section shall apply only to taxable years 2009 through 2011. Unless renewed or extended by subsequent Act of the General Assembly, the exemption granted by subsection (b) of this section shall not apply to taxable year 2012 or any subsequent taxable year.

**Sec. 5.09. Homestead exemption; senior citizens; disabled.**

- (a) As used in this section, the term:
  - (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Dunwoody, including, but not limited to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.
  - (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.
  - (3) "Income" means Georgia taxable net income determined pursuant to Chapter 7 of Title 48 of the O.C.G.A., as amended, for state income tax purposes, except income shall not include income received as retirement,



survivor, or disability benefits under the federal Social Security Act or under any other public or private retirement, disability, or pension system, except such income which is in excess of the maximum amount authorized to be paid to an individual and such individual's spouse under the federal Social Security Act. Income from such sources in excess of such maximum amount shall be included as income for the purposes of this Act.

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

under subsection (b) of this section to notify the governing authority of the City of Dunwoody, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

- (e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, County ad valorem taxes for County purposes, or County or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.
- (f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2009.

**Sec. 5.10. Homestead exemption; general.**

- (a) As used in this section, the term:
  - (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Dunwoody, including, but not limited to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.
  - (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.
- (b) Each resident of the City of Dunwoody is granted an exemption on that person's homestead from City of Dunwoody ad valorem taxes for municipal purposes in the amount of \$10,000.00 of the assessed value of that homestead. The value of that property in excess of such exempted amount shall remain subject to taxation.
- (c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Dunwoody, or the designee thereof, giving such information relative to receiving such exemption as will enable the governing authority of the City of Dunwoody, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Dunwoody, or the designee thereof, shall provide application forms for this purpose.
- (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year as long as the owner occupies the residence as a homestead. After a person has filed the proper application, as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City

of Dunwoody, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

- (e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, County ad valorem taxes for County purposes, or County or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.
- (f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2009.

**Sec. 5.11. Homestead exemption; surviving spouses.**

- (a) As used in this section, the term:
  - (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Dunwoody, including, but not limited to, ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.
  - (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.
  - (3) "Unremarried surviving spouse" of a member of the armed forces includes the unmarried widow or widower of a member of the armed forces who is receiving spousal benefits from the United States Department of Veterans Affairs.
- (b) Any person who is a resident of the City of Dunwoody and who is an unremarried surviving spouse of a member of the armed forces of the United States, which member has been killed in or has died as a result of any war or armed conflict in which the armed forces of the United States engaged, whether under United States command or otherwise, shall be granted a homestead exemption from all City of Dunwoody ad valorem taxation for municipal purposes in the amount of the greater of \$32,500.00 or the maximum amount which may be granted to a disabled veteran under Section 2102 of Title 38 of the United States Code, as amended. As of January 1, 2006, the maximum amount which may be granted to a disabled veteran under Section 2102 of Title 38 of the United States Code, as amended, is \$50,000.00. The exemption shall be on the homestead which the unremarried surviving spouse owns and actually occupies as a residence and homestead. In the event such surviving spouse remarries, such person shall cease to be qualified to continue the exemption under this Act effective December 31 of the taxable year in which such person remarries. The value of all property in excess of such exemption granted to such unremarried surviving spouse shall remain subject to taxation.
- (c) In order to qualify for the exemption provided for in this Act, the unremarried



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

- (d) An unremarried surviving spouse filing for the exemption under this section shall be required to file with the governing authority of the City of Dunwoody, or the designee thereof, information relative to marital status and other such information which the governing authority of the City of Dunwoody, or the designee thereof, deems necessary to determine eligibility for the exemption. Each unremarried surviving spouse shall file for the exemption only once with the governing authority of the City of Dunwoody, or the designee thereof. Once filed, the exemption shall automatically be renewed from year to year, except that the governing authority of the City of Dunwoody, or the designee thereof, may require annually that the holder of an exemption substantiate his or her continuing eligibility for the exemption. It shall be the duty of any person granted the homestead exemption under this section to notify the governing authority of the City of Dunwoody, or the designee thereof, in the event that person for any reason becomes ineligible for such exemption.
- (e) The exemption granted by this section shall be in lieu of and not in addition to any other exemption from ad valorem taxation for municipal purposes which is equal to or lower in amount than such exemption granted by this section. If the amount of any other exemption from ad valorem taxation for municipal purposes applicable to any resident qualifying under this section is greater than or is increased to an amount greater than the amount of the applicable exemption granted by this section, such other exemption shall apply and shall be in lieu of and not in addition to the exemption granted by this section.
- (f) The exemptions granted by this section shall apply to all tax years beginning on or after January 1, 2009.

#### **Sec. 5.12. Homestead exemption; one millage equivalent.**

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

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

- (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.
- (b) Each resident of the City of Dunwoody is granted an exemption on that person's homestead from City of Dunwoody ad valorem taxes for municipal purposes in an amount that provides the dollar equivalent of a one millage reduction of the millage rate applicable to the homestead property with respect to ad valorem taxes for municipal purposes for the taxable year. The value of that property in excess of such exempted amount shall remain subject to taxation.
- (c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Dunwoody, or the designee thereof, giving such information relative to receiving such exemption as will enable the governing authority of the City of Dunwoody, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Dunwoody, or the designee thereof, shall provide application forms for this purpose.
- (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year as long as the owner occupies the residence as a homestead. After a person has filed the proper application, as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Dunwoody, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.
- (e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, County ad valorem taxes for County purposes, or County or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.
- (f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2009.

**Sec. 5.13. Homestead exemption; fire special tax district HOST equivalent.**

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

**(1) "Ad valorem taxes for Fire Services" means all ad valorem taxes for the purpose of providing fire services levied by, for, or on behalf of the City of Dunwoody, including, but not limited to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.**



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

- (b) In the event that the City of Dunwoody assumes responsibility for the transfer of Fire Services from DeKalb County, each resident of the City of Dunwoody is granted an annual exemption on that person's homestead from City of Dunwoody ad valorem taxes in a fixed amount equal to the HOST tax credit provided to DeKalb County residences who participate in the Fire Services Special Tax District at a level equal to the average percentage credit for the five years immediately preceding the cutover of Fire Services. The value of that property in excess of such exempted amount shall remain subject to taxation.
- (c) A person shall receive the homestead exemption granted by subsection (b) of this section provided that the person or person's agent has filed or files an application with the governing authority of the City of Dunwoody in accordance with section 5.10(c) or 5.12(c) giving such information relative to receiving such exemption as will enable the governing authority of the City of Dunwoody, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. No additional homestead exemption form or application is required to grant the homestead exemption under this section.
- (d) The exemption shall be automatically renewed from year to year as long as the owner occupies the residence as a homestead. After a person has filed the proper application it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Dunwoody, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.
- (e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, County ad valorem taxes for County purposes, or County or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.
- (f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning in the year in which the City of Dunwoody assumes responsibility for the transfer of Fire Services from DeKalb County. In the event that the transfer of service does not coincide with taxable year-end, the homestead exemption shall be prorated in the first year in an amount equal to the percent of the first year in which Dunwoody provides Fire Services."



## **ARTICLE VI. GENERAL PROVISIONS**

Sec. 6.01. DeKalb County Special Services Tax District.

Sec. 6.02. Referendum and initial election.

Sec. 6.03. Effective dates and transition.

Sec. 6.04. Directory nature of dates.

Sec. 6.05. Charter Commission.

### **Sec. 6.01. DeKalb County Special Services Tax District.**

For the taxable years beginning on or after January 1, 2009, the adjusted ad valorem tax millage rate and amount for service charges or fees for district services for the Dunwoody special services tax district shall be zero percent. This section is enacted pursuant to the authority granted to the General Assembly under Section 1 of that local constitutional amendment providing that certain municipalities in DeKalb County shall constitute special services tax districts, Resolution Act No. 168; House Resolution No. 715-1916; Ga. L. 1978, p. 2468, to control the subject matter of such local constitutional amendment. Municipal services provided by DeKalb County for the City of Dunwoody will be established through intergovernmental agreements or established as otherwise authorized by statute.

### **Sec. 6.02. Referendum and initial election.**

- (a) Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of DeKalb County shall call a special election for the purpose of submitting this Act to the qualified voters of the proposed City of Dunwoody for approval or rejection. The superintendent shall set the date of such election for the date of the general primary in 2008. The superintendent shall issue the call for such election at least 30 days prior to the date thereof. The superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of DeKalb County. The ballot shall have written or printed thereon the words:

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

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

- (b) For the purposes of the referendum election provided for in subsection (a) of this section and for the purposes of the special election of the City of Dunwoody to be held on the third Tuesday in September, 2008, the qualified electors of the City of Dunwoody shall be those qualified electors of DeKalb County residing within the corporate limits of the City of Dunwoody as described by Appendix A of this Charter. At subsequent municipal elections, the qualified electors of the City of Dunwoody shall be determined pursuant to the authority of Chapter 2 of Title 21 of the O.C.G.A. known as the "Georgia Election Code."
- (c) Only for the purposes of holding and conducting the referendum election provided for by subsection (a) of this section and holding and conducting the special election of the City of Dunwoody to be held on the third Tuesday in September, 2008, the election superintendent of DeKalb County is vested with the powers and duties of the election superintendent of the City of Dunwoody and the powers and duties of the governing authority of the City of Dunwoody.

#### **Sec. 6.03. Effective dates and transition.**

- (a) The initial Mayor and Council Members shall take the oath of office the next business day after certification of the election of such officers, and by action of any four members of the governing authority may, prior to December 1, 2008, meet and take actions binding on the City.
- (b) A period of time will be needed for an orderly transition of various government functions from DeKalb County to the City of Dunwoody. Accordingly there shall be a two-year transition period as allowed by law beginning at 12:01 a.m. on December 1, 2008.
- (c) During such transition period, DeKalb County shall continue to provide within the territorial limits of the City all government services and functions which DeKalb County provided in 2008 and at the same actual direct cost and level of service, except to the extent otherwise provided in this section; provided, however, that upon at least 30 days' prior written notice to the governing authority of DeKalb County by the governing authority of City of Dunwoody, responsibility for any such service or function shall be transferred to the City of



Dunwoody. The governing authority of the City of Dunwoody shall determine the date of commencement of collection of taxes, fees, assessments, fines and forfeitures, and other moneys within the territorial limits of the City and the date upon which the City of Dunwoody is considered removed from the special tax district.

- (d) During the transition period, the governing authority of the City of Dunwoody may generally exercise any power granted by this Charter or general law, except to the extent that a power is specifically and integrally related to the provision of a governmental service, function, or responsibility not yet provided or carried out by the City.
- (e) During the transition period, all ordinances of DeKalb County shall remain applicable within the territorial limits of the City unless otherwise amended, repealed, or replaced by the City of Dunwoody. Any transfer of jurisdiction to the City of Dunwoody during or at the end of the transition period shall not in and of itself abate any judicial proceeding pending in DeKalb County or the pending prosecution of any violation of any ordinance of DeKalb County.
- (f) During the transition period, the governing authority of the City of Dunwoody may at any time, without the necessity of any agreement by DeKalb County, commence to exercise its planning and zoning powers; provided, however, that the City shall give the County notice of the date on which the City will assume the exercise of such powers. Upon the governing authority of the City of Dunwoody commencing to exercise its planning and zoning powers, the Municipal Court of the City of Dunwoody shall immediately have jurisdiction to enforce the planning and zoning ordinances of the City. The provisions of this subsection shall control over any conflicting provisions of any other subsection of this section.
- (g) Effective upon the termination of the transition period, subsections (b) through (f) of this section shall cease to apply except for the last sentence of subsection (e) which shall remain effective. Effective upon the termination of the transition period, the City of Dunwoody shall be a full functioning municipal corporation and subject to all general laws of this state.

#### **Sec. 6.04. Directory nature of dates.**

It is the intention of the General Assembly that this Act be construed as directory rather than mandatory with respect to any date prescribed in this Act. If it is necessary to delay any action called for in this Act for providential cause, delay in securing approval under the federal Voting Rights Act, or any other reason, it is the intention of the General Assembly that the action be delayed rather than abandoned. Any delay in performing any action under this Act, whether for cause or otherwise, shall not operate to frustrate the overall intent of this Act. Without limiting the generality of the foregoing it is specifically provided that if it is not possible to hold the referendum election provided for in Section 6.02 of this Act on

the date specified in that section, then such referendum shall be held as soon thereafter as is reasonably practicable but not later than 45 days after securing approval under the federal Voting Rights Act. If the referendum election provided for in Section 6.02 of this Act is conducted on or before August 7, 2008, the special election for the initial members of the governing authority shall be conducted on the date specified in Section 2.02 of this Act. If the referendum election provided for under Section 6.02 of this Act is conducted after August 7, 2008, then the special election for the initial members of the governing authority shall be held as soon thereafter as is reasonably practicable, and the commencement of the initial terms of office shall be delayed accordingly. If the first election provided for in Section 2.02 of this Act occurs after the Tuesday following the first Monday in November, 2008, the City Council shall be authorized to delay the dates otherwise specified in Section 6.03 of this Act.

#### **Sec. 6.05. Charter Commission.**

No later than five years after the inception of the City of Dunwoody, the Mayor and the City Council shall call for a charter commission to review the City's experience and recommend to the General Assembly any changes to the Charter. The Charter shall also be reviewed in the year 2020, seven years after the initial review. Members of the Charter Commission shall be appointed as follows: one by the Mayor, one by the City Council, and one by each member of the Georgia House of Representatives or Senate whose district lies wholly or partially within the corporate boundaries of the City. All members of the Charter Commission must reside in the City of Dunwoody. The commission must complete the recommendations within the time frame required by the City Council.



## Appendix B – Meritorious Ideas

**Ideas not approved by the Commission, but deemed to be potentially meritorious. For discussion and consideration in future years.**

<b>Section:</b>	<b>2.07 Compensation and expenses.</b>
<b>Sentiment:</b>	Increase Council and Mayor salary.
<b>Pro:</b>	Being Mayor or on City Council is clearly a part-time job and should stay that way. The Commission concurs that elected officials should not be compensated at a rate that makes them determined to stay in office to retain their pay and perks. That said, inflation on will eventually eat away at the level of compensation set in 2008; the Commission I proposes that we raise Council's pay from \$12,000 to \$13,000 per year and the Mayor's pay from \$16,000 to \$17,500. That provides a modest pay increase over the last five years and the next five to ten.
<b>Con:</b>	Council Members are capable of voting themselves a raise, but should have to justify an increase to their constituencies.

<b>Section:</b>	<b>2.07 Compensation and expenses.</b>
<b>Sentiment:</b>	Restore salary levels for Council Members and Mayor to those proposed in the original charter presentation (i.e. \$24,000 and \$36,000 respectively).
<b>Pro:</b>	Would serve to enlarge the pool of candidates who would run for public election beyond wealthy and retired individuals. Would be a good second income for a person with a family that is motivated to serve but can't afford the loss of the second income for the family.
<b>Con:</b>	Council Members are capable of voting themselves a raise, but should have to justify an increase to their constituencies. It was also noted that several current and prior Council Members are neither wealthy nor retired and that serving on Council is a part-time responsibility.



<b>Section:</b>	<b>2.01(3)(e) City Council creation; number; election.</b>
<b>Sentiment:</b>	Shift the Mayor's election from its current cycle-where it coincides with the three at-large Council races-to the cycle that coincides with the three district races.
<b>Pro:</b>	The Commission has concerns that low voter turnout in our district election cycles where there will be only one race on each resident's ballot to bring folks to the polls. I think moving the Mayor's race to the same cycle as the district Council races would help generate more turnout and that will improve the quality of our representation.
<b>Con:</b>	Issues drive voter turnout. Moving the Mayor's election to district-only years might decrease turnout for the Mayor's race. A one-time change in the next Mayor's term would be required.

<b>Section:</b>	<b>No section number currently exists.</b>
<b>Sentiment:</b>	Require representation of each district on any city-wide committees and/or working groups.
<b>Pro:</b>	Assures all districts' viewpoints are represented on committees.
<b>Con:</b>	Might require having a less qualified person on a committee or might make it more difficult to get viewpoints by age or gender (rather than by district).

<b>Section:</b>	<b>No section number currently exists.</b>
<b>Sentiment:</b>	Establish a cap on the amount of debt the City can assume without voter approval.
<b>Pro:</b>	Voters are on the hook for any debt that the City agrees to.
<b>Con:</b>	General obligation bonds already require voter approval. The City is already limited to 10% of value of property located within the City limits (~\$1.9 billion in property, represents a debt limit of \$192 millage (~7X the current annual budget).



<b>Section:</b>	<b>No section number currently exists.</b>
<b>Sentiment:</b>	Amend the Dunwoody Charter to include an elected internal auditor with staff to be paid for by a set percentage of the City budget.
<b>Pro:</b>	<p>Currently, the City of Dunwoody has a part time internal auditor who reports directly to Council. The current budget for our part time internal auditor is proposed by the City Manager, creating a conflict of interest.</p> <p>Changing the Charter will provide an independent budget for a full time staff and a highly transparent elected office held accountable directly to the voters to monitor and oversee City fiscal matters. This would be a truly independent office outside the influence of the Mayor, Council, City Manager or City staff.</p> <p>Currently the City of Dunwoody has an approximate budget of \$25 million that flows through the City. Complete accountability and independence should be a mandate.</p> <p>Both DeKalb County and DeKalb County School System are currently pursuing criminal corruption cases. Good management practice dictates that an auditor not report to the position most likely to become corrupted. Various cities throughout the country have adopted the elected auditor as a solution.</p>
<b>Con:</b>	Dunwoody already has an independent auditor who is selected by Council and reports to Council. At any point that Council sees the need, this position can be funded as a full-time position, or create a department with staff. Selection of an auditor through an RFP/bid evaluation process could potentially provide for a more professional outcome for selecting an auditor than a City-wide election for a four year term in office.
<b>Section:</b>	<b>No section number currently exists.</b>
<b>Sentiment:</b>	The City Attorney(s) or the City Council shall approve all contracts of the City but shall not have the power to bind the City.
<b>Pro:</b>	It has been brought to the Commission's attention that the City Manager has in the past frequently ignored contract



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reviews provided by the City Attorney. Obviously this opens up the City, and thus the taxpayers, to potential legal issues, costs, and liabilities. The proposed change would force the manager to utilize the City Attorney's counsel while providing an avenue for overriding the City attorney if strong need be present.

**Con:** The City Attorney does not "approve or disapprove" contracts. The City Attorney reviews terms and conditions and provides advice and guidance on potential risks. This occurs today.

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**Section:** No section number currently exists.

**Sentiment:** Require attendance of City Council Members at regularly scheduled quarterly forums for City Council to answer questions from the public.

**Pro:** Feeling within the community that the City Council is ignoring the public's opinions. Forums would provide opportunity for Council Members to explain/sell the voters on the actions of the Council through answering questions directed to the Council Members by attendees. The date of these sessions would be established as the evening of the first specified weekday in a calendar quarter (i.e. first Wednesday evening). To ensure Council Members attend these sessions, failure to attend at least 50% of these sessions in a calendar year would cause the Council member to be removed from office.

**Con:** Citizens are free to approach any Council Member outside of Council meetings. This can be done without a charter amendment. The Mayor has asked the City Manager to pursue the idea.

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**Section:** No section number currently exists.

**Sentiment:** Require signature of two Council Members for any item to be placed on Council agenda.

**Pro:** The Council's primary duty is to set broad policy and evaluate whether the City Manager is doing a good job at implementing those broad policies. Sponsorship would

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become part of the published agenda. No staff items could be placed on a City Council's agenda without the prior public support of at least 2 Council Members.

The public needs to know which Council Members are sponsoring which ideas, as opposed to just voting on items that are anonymously placed on the agenda by staff. The two Council Members supporting an agenda item would be listed next to the item on the published agenda.

**Con:** Can be done by methods other than a Charter change.

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**Section:** No section number currently exists.

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**Sentiment:** Revenue Cap: Each election cycle the voters will determine the revenue cap for the following two fiscal years. Council will put forward a recommended revenue cap, and voters will have the ability to vote for one of three options:

- 90% of Council's proposal
- 100% of Council's proposal
- 110% of Council's proposal

Any surplus of revenue (actual versus budgeted) must go to an operating reserve fund until that fund has at least six months of operating expenses in it.

Any revenues collected in excess of the revenue cap will be returned to property owners as a credit on their property tax bill in the following fiscal year.

**Pro:** The City Council could change the mix of how revenues are raised but not the absolute dollar amount, which would be capped. This is needed to:

- prevent spending of windfall revenues until operating reserve is funded
- cause the Council to focus on effective distribution of existing pie or on convincing voters of the merits of increasing the size of the revenue pie

Growth in the grand list would not automatically lead to new program spending because additional revenues are available. Voters would control funding, and Council would be responsible for ensuring money is well spent.

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<b>Con:</b>	Might tie hands of Council and City Manager.
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<b>Section:</b>	<b>No section number currently exists.</b>
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<b>Sentiment:</b>	3 Constituency Councils (CC) would be designated by the City Council (one each to represent the business community, social organizations, and the residents respectively). The CCs would receive notice of planned votes by the Council at least thirty days before the vote is scheduled. Each CC would submit a short written opinion on all matters scheduled to be voted upon by the City Council, expressing both the pros & cons as perceived by the Charter Commission membership along with any recommended changes.
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<b>Pro:</b>	There is a feeling within the community that the City administration is not seeking and may be actively discouraging citizen input. Public meetings are frequently informative, but only after a decision has been made. These constituency Councils would allow the City Council to get three potentially different perspectives from that of the City administration, on any proposed changes, and increase the chance of surfacing any unintended negative consequences that might result from a proposed change.
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Membership in the CC would be based on the following:

Residential Constituency Council: any person residing within Dunwoody.

Business Constituency Council: all persons appointed to represent the views of individual businesses licensed to do business within Dunwoody.

Social Constituency Council: any representative who is appointed by a church, synagogue, charity or educational institution operating within the City of Dunwoody to represent their views.

<b>Con:</b>	DHA already exists (although it only represents home owners, not renters), as does the Chamber of Commerce.
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<b>Section:</b>	<b>No section number currently exists.</b>
<b>Sentiment:</b>	Impact fees shall be charged on all residential and commercial development.
<b>Pro:</b>	<p>In accordance with the state formula, the City will set up mandatory impact fees.</p> <p>Residential developments shall be required to pay impact fees for parks, storm water, roads, and traffic control devices.</p> <p>Commercial developments shall be required to pay impact fees for roads, traffic control devices, and storm water.</p>
<b>Con:</b>	Council already has power to do so if they choose.

<b>Section:</b>	<b>No section number currently exists.</b>
<b>Sentiment:</b>	Position of City Manager shall become the Office of City Manager with a separate RFQ rather than being an employee of the City. The winner of the Office of City Manager RFQ may not bid on any other City RFQ while they hold the contract for the Office of City Manager.
<b>Pro:</b>	<p>City Manager is an extremely powerful person in the way that Dunwoody designed its governance structure. The position was originally established to counteract what was expected to be a powerful single contractor (CH2M Hill). We now have multiple RFQs and the City Manager no longer needs to be that powerful, and in fact could be made a team player coordinating managers from other RFQs rather than supplying the sole leadership input. This would widen the City Council's impact, giving a greater impact to the voice of the citizens' representatives. All RFQ winners would be required to annually evaluate the other RFQ winners to give Council independent feedback, something that would not be possible if the City Manager remains an employee of the City.</p>
<b>Con:</b>	Too big a change for Charter Commission to consider; several Charter Commission members expressed approval and confidence in the current system.



<b>Section:</b>	<b>No section number currently exists.</b>
<b>Sentiment:</b>	Need for management assessment before any land purchase is undertaken.
<b>Pro:</b>	Prevent impropriety.
<b>Con:</b>	May breach transaction confidentiality.

<b>Section:</b>	<b>No section number currently exists.</b>
<b>Sentiment:</b>	City needs to communicate better. Placing something on website is a monologue not a dialogue.
<b>Pro:</b>	Increase citizen to Council, citizen to City communications.
<b>Con:</b>	Not a Charter mandate.

<b>Section:</b>	<b>No section number currently exists.</b>
<b>Sentiment:</b>	City Manager not under any compulsion to listen to citizens. May need to be an elected position to be accountable.
<b>Pro:</b>	Increase accountability.
<b>Con:</b>	Keep government small.

<b>Section:</b>	<b>No section number currently exists.</b>
<b>Sentiment:</b>	Lack of dialogue by City Council with the public.
<b>Pro:</b>	Increase dialogue.
<b>Con:</b>	Suggested Town Hall meeting.

<b>Section:</b>	<b>No section number currently exists.</b>
<b>Sentiment:</b>	Raising taxes should require direct approval by the voters.
<b>Pro:</b>	Millage rate freeze.
<b>Con:</b>	Currently exists.



<b>Section:</b>	<b>No section number currently exists.</b>
<b>Sentiment:</b>	Additional County services should be undertaken only after direct voter approval.
<b>Pro:</b>	Reduction of Council powers.
<b>Con:</b>	Current Charter prevents additional County services if costs increase above 3.04 millage rate cap.

<b>Section:</b>	<b>No section number currently exists.</b>
<b>Sentiment:</b>	Need for checks and balances with regard to City Manager.
<b>Pro:</b>	Increased accountability.
<b>Con:</b>	Substantial checks and balances currently exists.

<b>Section:</b>	<b>No section number currently exists.</b>
<b>Sentiment:</b>	Petition signed by 25% of electorate can cause reconsideration of a law/amendment/ordinance.
<b>Pro:</b>	Withdrawn by Chair.
<b>Con:</b>	N/A

## **Appendix C – Charter Review Public Comments**

Council Member Nall - thanked the Charter Commission for their service and hard work.

Merry Carmichael – expressed concern regarding the City taking over government services from other entities, namely DeKalb County. She noted that she would not be opposed to the City looking into this as long as it wasn't done without voter approval. She said the language on the 20% is not clear and that it needs to be defined as a millage rate cap. She added that it is important that citizens be given opportunity to review all suggested changes to the Charter.

Jeanette Smith – said she is vehemently opposed to other government services being undertaken without voter approval. She noted that all costs should be clearly stated and all guidelines defined.

Norb Leahy – Wyntercreek subdivision, said he was speaking on behalf of the voters. He said they have finished their poll and almost 80% of the voters were against the three projects that were surveyed.

Jerry Carmichael - thanked the members for serving on the Charter Commission. He noted that he sees two issues: consideration for new services: what is missing in the Charter is the process for considering new services, a timeline on that transition, specific accountability and responsibility, and coming from the private sector not the public sector. The second issue is the funding. He spoke in favor of voter approval.

Ed Palmer – spoke regarding his discouragement with what is going on in the City. He noted that many people are watching the Mayor and Council and the citizens want them to do what is best for the community.

Arthur Farmer – indicated that anything the Charter Commission does needs to be communicated and voted upon.

Tony Delmichi – passed comment.

Bob Wolford – noted that he would not be in favor of having the City take over sanitation services.

Jay Pryor – encouraged the Commission to tilt the balance of power toward the Mayor rather than the City Manager because the citizens are unable to vote the City Manager out of office.

Jeanette Smith – spoke about concerns that the City is hosting meetings with premeditated outcomes that aren't giving voice to the citizens.



Merry Carmichael – noted that the City should not obtain services from another government entity until the idea has been fully vetted and the citizens are allowed to vote.

Tony Delmichi – said he has ideas for the City based on comparing Dunwoody to other communities in New England.

Denis Shortal – noted that if the City has to move services from another governmental entity then it should be done so at the current tax rate and that should only be raised with the approval of the voters.

Merry Carmichael - spoke against citizens having their right to vote taken away. She spoke in favor of the citizens voting on the City taking on any services from DeKalb County. Ms. Carmichael noted that the citizens should have a say on all changes to the millage rate.

Roxanne Kaplan - spoke against the changes to Dunwoody Village Parkway and the removal of the trees.

Jim Dickson – said there is a huge disconnect between the City government and the people who live here. He stated that the controversial decisions should not be made until after the election.

Ann Wells – noted that she agreed with Ms. Carmichael's comments.

Patricia Webster – said that she agreed with what had already been said.

Nancy Wiley – commented that the current sanitation service is the best sanitation service there is.

Kathryn Wrisley – said she agreed with what been said regarding Dunwoody Village Parkway and removal of the trees.

Phyllis Weisser – expressed concern that the Charter Commission meeting was being held on July 3<sup>rd</sup> when people would be out of town. She said she feels that the elected officials are not listening to the citizens. Ms. Weisser noted that she is against the Dunwoody Village Parkway project.

Ed Palmer - thanked the members of the Charter Commission for serving. He commented that if the Council is given the power to assume services without the vote of the people they will probably go ahead and do it. Mr. Palmer asked where the statistical data for the fire department is.

Cheryl – commented that she took offense to a comment Commission Member Wingate made regarding the fire and EMS services being slow.

Jeanette Smith – said they are fighting for their right to vote and with the elections coming up, she will fight for this.

Tom Wichser – 2329 Delverton Drive – spoke about the need for transparency and reporting on financial matters that happen in the City.

Cheryl Dreux – requested that a provision be added to the Charter requiring that a risk management assessment report be required of any entity representing the City prior to any land development and that the report be made public.

Merry Carmichael – spoke against the Section 1.03(37)(b) being included in the Charter and indicated that if she is going to have to pay taxes on a service she would like to have a say in whether or not the City takes on that service.

Jim Dickson – spoke against the proposed changes to section 1.03(37)(b).

Pat Eubank – spoke in favor of keeping the financial and political powers of the City Council limited in scope.

Chris Grivakis – said the fire department was not a top issue when citizens discussed starting a new City and feels it should require a vote if the Council wants to add these services. He encouraged the Charter Commission to remove the new language in section 1.03(37)(b).

Bobbi Sedam – spoke regarding water conservation and indicated that a Citywide 75 foot stream buffer is important for keeping our water clean.

Merry Carmichael – commented “a new Paragraph B proposed for Section 1.03(37) in our Charter does indeed eliminate our right to vote...and gives this authority to the Mayor and Council.”

Cheryl Dreux – asked that a risk management assessment be undertaken on any land development done by the City and the report be made public. She requested that an independent CPA review the City’s financial report.

Caroline Hays – shared millage rates from around the north metro area asked the Charter Commission to consider that the fire department provision might introduce unforeseen challenges to the City.

Tom Wichser – spoke regarding general obligation bonds and requested a restatement of the financial statements if the bonds in the statements are not GO bonds.

Jim Dickson – said he felt the City Manager's explanation of taking over fire services and the special district tax explanation was flawed, adding that if intent is only to take over fire services then the Charter should state that specifically.



Ed Palmer - Village Oaks Drive, spoke regarding the Charter Commission's proposal to give the City Council the authority that should only be given to the people, asking where the data is that supports the need to do this. He urged the Charter Commission not to give more authority to City Council than they currently have.

Tom Wichser- spoke regarding wanting to vote for additional services.

Bob Lundsten - commented that you don't change laws to accommodate a cause. He said the solution is that there is an opportunity to elect new elected officials every two years.

Henley Shelton - thanked the Charter Commission for their service. He said he would like there to be a requirement for a town hall meeting four times a year without a three minute time limit for public comment.

Sam Eads - thanked the Charter Commission; for their service. He urged the Commission to keep Article III Section 3.01(a)(2) as it appears in the original Charter.

Pat Eubank - commented that she has not been able to access the zoning code rewrite online and that she would like to get this online, no matter the cost.

Merry Carmichael - provided the Chairman and the City Clerk with copies of her comments from the past five meetings and for the August 14th meeting. She noted that she has been consistent with her point that she wants citizens to retain their right to vote on whether or not to fund the City taking on services from DeKalb County. Ms. Carmichael requested that her comments from the July 31<sup>st</sup> meeting be corrected to read "Funding comes from Section 1.03(37)—Ad Valorem Taxes—Paragraph A in this section clearly states any millage rate over 3.04 must have voter approval. For this Charter Commission to propose a new Paragraph B to this section does indeed eliminate our right to vote and gives this authority to the Mayor and Council." Ms. Carmichael said the solution is to include the citizens in all major projects funding through advertising and community meetings, not amendments to the Charter.

Jim Dickson - commented that the primary concern is the urban planning agenda of the Council over the past five years, which he feels has generally slipped under the radar screen of most Dunwoody citizens. The purpose of the election is to bring this urban planning agenda to the light of day. The master plans were never rescinded or amended as they should have been. The voters are going to decide what kind of City they want.

AD - thanked the Charter Commission for their service. He stated that he dislikes bureaucracy and that getting through the bureaucracy is tough. He asked if the Dunwoody Homeowner's Association is a special interest group.

Norb Leahy - proposed that in Section 1.03 Powers and Construction - Subsection (b)(19) Municipal debts, that the following language be added "The aggregate limit

for all types of bonds issued that are direct or indirect obligations of the City shall not exceed \$12,000,000 without a resolution of the City Council and approved by a majority of the qualified voters of the City of Dunwoody" and that debt not be incurred except for roads and storm sewer.

Jim Dickson - proposed that the bond issuance be capped. He said Mr. Leahy's proposal lets the City go to the voters to go beyond the cap. Mr. Dickson urged the Charter Commission to change the rules and address this.

Jim Riticher - proposed that the last sentence in Section 3.08 City Attorney, be revised to read "The City Council and the City attorney(s) shall review all contracts of the City but shall not have the power to bind the City." Mr. Riticher said it has come to his attention that the City Manager has ignored the City Attorney's recommendation in the past. He said Brian Anderson told him that this has happened. He noted that the Charter Commission can contact Mr. Anderson and ask him for specific examples.

Tammy Anderson - proposed that the City have an elected City Auditor, stating that there are no checks and balances now. Ms. Anderson distributed copies of other cities in the nation that are doing something similar.

Brian Anderson - presented the following proposals: 1) CFO to report directly to the City Council, 2) IT & HR report to the City Attorney, and 3) The RFP process placed under the supervision of the City Clerk.