

\_\_\_\_\_ offers the following  
 substitute to HB 636:

A BILL TO BE ENTITLED  
 AN ACT

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

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I  
CREATION, INCORPORATION, POWERS

**SECTION 1.01.**

Incorporation.

This Act shall constitute the charter of the City of Brookhaven, Georgia. The City of Brookhaven, 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 Brookhaven" 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.

**SECTION 1.02.**

Corporate boundaries.

The boundaries of the City of Brookhaven 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.

**SECTION 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;

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

90 (8) Environmental protection. To protect and preserve the natural resources,  
91 environment, and vital areas of the city, the region, and the state through the enactment  
92 of ordinances that preserve and improve air quality, restore and maintain water resources,  
93 the control of erosion and sedimentation, manage storm water and establish a storm-water  
94 utility, manage solid and hazardous waste, and provide other necessary or beneficial  
95 actions for the protection of the environment. These ordinances shall include, without  
96 limitation, ordinances that protect, maintain, and enhance the public health, safety,  
97 environment, and general welfare and minimize public and private losses due to flood  
98 conditions in flood hazard areas, as well as protect the beneficial uses of flood plain areas  
99 for water quality protection, stream bank and stream corridor protection, wetlands  
100 preservation, and ecological and environmental protection. Such ordinances may require  
101 that users vulnerable to floods, including facilities which serve such uses, be protected  
102 against flood damage at the time of initial construction; restrict or prohibit uses which are  
103 dangerous to health, safety, and property due to flooding or erosion hazards, or which  
104 increase flood heights, velocities, or erosion; control filling, grading, dredging, and other  
105 development which may increase flood damage or erosion; prevent or regulate the  
106 construction of flood barriers which will unnaturally divert flood waters or which may  
107 increase flood hazards to other lands; limit the alteration of natural flood plains, stream  
108 channels, and natural protective barriers which are involved in the accommodation of  
109 flood waters; and protect the storm-water management, water quality, stream bank  
110 protection, stream corridor protection, wetland preservation, and ecological functions of  
111 natural flood plain areas;

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

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

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

- 126 (12) General health, safety, and welfare. To define, regulate, and prohibit any act,  
127 practice, conduct, or use of property which is detrimental to health, sanitation,  
128 cleanliness, welfare, and safety of the inhabitants of the city, and to provide for the  
129 enforcement of such standards;
- 130 (13) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for  
131 any purpose related to powers and duties of the city and the general welfare of its  
132 citizens, on such terms and conditions as the donor or grantor may impose;
- 133 (14) Health and sanitation. To prescribe standards of health and sanitation and to  
134 provide for the enforcement of such standards;
- 135 (15) Homestead exemption. To establish and maintain procedures for offering  
136 homestead exemptions to residents of the city and maintaining current homestead  
137 exemptions of residents of the city as authorized by Act of the General Assembly;
- 138 (16) Jail sentences. To provide that persons given jail sentences in the city's court may  
139 work out such sentences in any public works or on the streets, roads, drains, and other  
140 public property in the city; to provide for commitment of such persons to any jail; to  
141 provide for the use of pretrial diversion and any alternative sentencing allowed by law;  
142 or to provide for commitment of such persons to any county work camp or county jail by  
143 agreement with the appropriate county officials;
- 144 (17) Motor vehicles. To regulate the operation of motor vehicles and exercise control  
145 over all traffic, including parking upon or across the streets, roads, alleys, and walkways  
146 of the city;
- 147 (18) Municipal agencies and delegation of power. To create, alter, or abolish  
148 departments, boards, offices not specified in this charter, commissions, authorities, and  
149 agencies of the city; and to confer upon such agencies the necessary and appropriate  
150 authority for carrying out all the powers conferred upon or delegated to the same;
- 151 (19) Municipal debts. To appropriate and borrow money for the payment of debts of the  
152 city and to issue bonds for the purpose of raising revenue to carry out any project,  
153 program, or venture authorized by this charter or the laws of the State of Georgia;
- 154 (20) Municipal property ownership. To acquire, dispose of, lease, and hold in trust or  
155 otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or  
156 outside the property limits of the city;
- 157 (21) Municipal property protection. To provide for the preservation and protection of  
158 property and equipment of the city and the administration and use of same by the public;  
159 and to prescribe penalties and punishment for violations thereof;
- 160 (22) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose  
161 of public utilities, including but not limited to a system of waterworks, sewers and drains,  
162 sewage disposal, storm-water management, gasworks, electricity generating plants, cable

163 television and other telecommunications, transportation facilities, public airports, and any  
164 other public utility; to fix the taxes, charges, rates, fares, fees, assessments, regulations,  
165 and penalties; and to provide for the withdrawal of service for refusal or failure to pay the  
166 same;

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

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

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

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

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

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

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

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

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

197 (32) Regulation of roadside areas. To prohibit or regulate and control the erection,  
198 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any  
199 and all other structures or obstructions upon or adjacent to the rights of way of streets and

200 roads or within view thereof, within or abutting the corporate limits of the city; and to  
201 prescribe penalties and punishment for violation of such ordinances;

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

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

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

216 (36) Special assessments. To levy and provide for the collection of special assessments  
217 to cover the costs for any public improvements, subject to referendum;

218 (37) Taxes; ad valorem. To levy and provide for the assessment, valuation, revaluation,  
219 and collection of taxes on all property subject to taxation; provided, however, that:

220 (A) The millage rate imposed for ad valorem taxes on real property shall not exceed  
221 3.35 unless a higher limit is recommended by resolution of the city council and  
222 approved by a majority of the qualified electors of the City of Brookhaven voting on  
223 the issue, provided that the amount of millage associated with general obligation bonds  
224 shall not count as part of the 3.35 limit since such millage is already subject to approval  
225 by the electors of the city in a separate referendum;

226 (B) For all years, the fair market value of all property subject to taxation shall be  
227 determined according to the tax digest of DeKalb County, as provided in Code Section  
228 48-5-352 of the O.C.G.A.; and

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

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

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

241 (41) Urban redevelopment. To organize and operate an urban redevelopment program;  
 242 and

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

254 **SECTION 1.04.**

255 Exercise of powers.

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

260 **SECTION 1.05.**

261 Tourism, conventions, and trade shows.

262 The Brookhaven Convention and Visitors Bureau is hereby created.

ARTICLE II  
GOVERNMENT STRUCTURE, ELECTIONS,  
AND LEGISLATIVE BRANCH  
**SECTION 2.01.**

City council creation; number; election.

(a) The legislative authority of the government of the City of Brookhaven, except as otherwise specifically provided in this Act, shall be vested in a city council of which the mayor shall be a voting member to the extent provided in subsection (a) of Section 2.10 of this charter.

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

(2)(A) For the purposes of electing members of the city council, the City of Brookhaven shall be divided into three council districts, designated Council Districts 1 through 3. Such three districts shall be and correspond to those three numbered districts described in and attached to and made a part of this Act as Appendix "B" and further identified as 'Plan: BHcc-2012 Plan Type: Local Administrator: H080 User: Gina'.

(B)(i) For the purposes of such plan:

(I) The term 'VTD' shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2010 for the State of Georgia. The separate numeric designations in a district description which are underneath a VTD heading shall mean and describe individual Blocks within a VTD as provided in the report of the Bureau of the Census for the United States decennial census of 2010 for the State of Georgia; and  
(II) Except as otherwise provided in the description of any district, whenever the description of any district refers to a named city, it shall mean the geographical boundaries of that city as shown on the census maps for the United States decennial census of 2010 for the State of Georgia.

(ii) Any part of the City of Brookhaven which is not included in any district described in subparagraph (A) of this paragraph shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2010 for the State of Georgia.

(iii) Any part of the City of Brookhaven which is described in subparagraph (A) of this paragraph as being included in a particular district shall nevertheless not be included within such district if such part is not contiguous to such district. Such noncontiguous part shall instead be included within that district contiguous to such

298 part which contains the least population according to the United States decennial  
299 census of 2010 for the State of Georgia.

300 (iv) Any part of the City of Brookhaven which is described in subparagraph (A) of  
301 this paragraph as being included in a particular district which, on the effective date  
302 of this Act is within the corporate boundaries of another municipality, shall not be  
303 included within such district.

304 (C) Following each decennial census, the city council shall revise such districts  
305 pursuant to Code Section 36-35-4.1 of the O.C.G.A. to maintain a proper population  
306 balance among such districts.

307 (3) One councilmember shall be elected from each of the three council districts and shall  
308 hold Council Posts 1, 2, and 3, respectively. Each person desiring to offer as a candidate  
309 for councilmember for such posts shall designate the council post for which he or she is  
310 offering. Councilmembers for such posts shall be elected by a majority vote of the  
311 qualified electors of the respective council districts voting at the elections of the city. In  
312 the event that no candidate for a council post obtains a majority vote of the qualified  
313 electors of the council district voting in the election, then a run-off election shall be held.  
314 The candidates receiving the two highest numbers of votes in the election for such  
315 council post will be included in the run-off election. The person receiving the highest  
316 number of votes of the qualified electors of the council district voting at such run-off  
317 election shall be elected. Each candidate for election to the city council must reside in  
318 the district he or she seeks to represent.

319 (4) Three councilmembers shall be elected from the city at large and shall represent  
320 Council Posts 4, 5, and 6. Candidates offering for election to Council Post 4 shall reside  
321 in Council District 1, candidates offering for election to Council Post 5 shall reside in  
322 Council District 2, and candidates offering for election to Council Post 6 shall reside in  
323 Council District 3. Each person desiring to offer as a candidate for councilmember for  
324 such posts shall designate the council post for which he or she is offering.  
325 Councilmembers for such posts shall be elected by a majority vote of the qualified  
326 electors of the entire city voting at the elections of the city. In the event that no candidate  
327 for a council post obtains a majority vote of the qualified electors of the entire city voting  
328 in the election, then a run-off election shall be held. The candidates receiving the two  
329 highest numbers of votes in the election for such council post will be included in the  
330 run-off election. The person receiving the highest number of votes of the qualified  
331 electors of the city voting at such run-off election shall be elected.

332 (c) With the exception of the initial terms set forth in subsection (d) of this section,  
333 councilmembers shall be elected to terms of four years and until their successors are elected

334 and qualified on a staggered basis in alternate election cycles such that every two years three  
335 councilmembers are up for election.

336 (d) In order to assure staggered elections of the councilmembers, in the first election of the  
337 city council the terms for the candidates elected for Council Posts 1, 2, and 3 shall expire  
338 upon the administration of the oath of office to their successors elected in the regular  
339 elections held in November, 2013, as provided in subsection (b) of Section 2.02 of this  
340 charter. The terms for the candidates elected for Council Posts 4, 5, and 6 shall expire upon  
341 the administration of the oath of office to their successors elected in the regular elections held  
342 in November, 2015, as provided in subsection (b) of Section 2.02 of this charter. Thereafter,  
343 a successor to each councilmember shall be elected at the November election immediately  
344 preceding the end of such councilmember's term of office and the term of each  
345 councilmember shall expire upon the administration of the oath of office to his or her  
346 successor.

347 (e) With the exception of the initial term of office, the mayor of the City of Brookhaven,  
348 with the powers and duties specified herein, shall be elected to a term of four years and until  
349 his or her successor is elected and qualified. The mayor shall be elected by a majority vote  
350 of the qualified electors of the city at large voting at the elections of the city. In the event  
351 that no candidate for mayor obtains a majority vote of the qualified electors of the city at  
352 large voting at the elections of the city, then a run-off election shall be held. The candidates  
353 receiving the two highest numbers of votes in the election shall be included in the run-off  
354 election and the candidate receiving the highest number of votes in the runoff of the qualified  
355 electors of the city at large voting at such runoff shall be elected. The term of the first  
356 elected mayor shall expire upon the administration of the oath of office to his or her  
357 successor elected in the regular election held in November, 2015, as provided in  
358 subsection (b) of Section 2.02 of this charter. Thereafter, a successor to each mayor shall be  
359 elected at the November election immediately preceding the end of such mayor's term of  
360 office and the term of each mayor shall expire upon the administration of the oath of office  
361 to his or her successor.

362 **SECTION 2.02.**

363 Mayor and councilmembers; terms and qualifications for office.

364 (a) For all elections subsequent to the first election, the mayor and councilmembers shall  
365 serve for terms of four years and until their terms shall expire upon the administration of the  
366 oath of office to their successors. No person shall be eligible to serve as mayor or  
367 councilmember unless that person shall have been a resident of the City of Brookhaven for  
368 a continuous period of at least 12 months immediately prior to the date of the election for

369 mayor or councilmember, shall continue to reside therein during that person's period of  
 370 service, and shall continue to be registered and qualified to vote in municipal elections of the  
 371 City of Brookhaven. In addition to the above requirements, no person shall be eligible to  
 372 serve as a councilmember representing a council district unless that person has been a  
 373 resident of the district such person seeks to represent for a continuous period of at least six  
 374 months immediately prior to the date of the election for councilmember and continues to  
 375 reside in such district during that person's period of service.

376 (b) An election shall be held on the Tuesday after the first Monday in November, 2012, to  
 377 elect the first mayor and city council. At such election, the first mayor and council shall be  
 378 elected to serve for the initial terms of office specified in subsections (d) and (e) of Section  
 379 2.01 of this charter. Thereafter, the time for holding regular municipal elections shall be on  
 380 the Tuesday next following the first Monday in November of each odd-numbered year  
 381 beginning in 2013.

382 (c) The number of consecutive terms an individual may hold a position as a councilmember  
 383 shall be unlimited.

384 (d) The number of consecutive terms an individual may hold the position of mayor shall be  
 385 limited to two terms.

386 (e) No person who was a member of the General Assembly at the time of the enactment of  
 387 this charter shall be eligible for election or to serve as mayor or councilmember of the City  
 388 of Brookhaven during the first four years of the city's existence.

### 389 **SECTION 2.03.**

#### 390 Vacancy; filling of vacancies; suspensions.

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

395 (1) Violating the provisions of this charter;

396 (2) Being convicted of, or pleading guilty or "no contest" to, a felony or a crime of moral  
 397 turpitude; or

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

400 (b) The office of mayor shall become vacant upon the incumbent's death, resignation,  
 401 forfeiture of office, or removal from office in any manner authorized by this charter or the  
 402 general laws of the State of Georgia. A vacancy in the office of mayor shall be filled for the  
 403 remainder of the unexpired term by a special election if such vacancy occurs 12 months or

404 more prior to the expiration of the term of that office. If such vacancy occurs within 12  
 405 months of the expiration of the term of that office, the city council or those members  
 406 remaining shall appoint a successor for the remainder of the term. This provision shall also  
 407 apply to a temporary vacancy created by the suspension from office of the mayor.

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

417 **SECTION 2.04.**

418 Nonpartisan elections.

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

421 **SECTION 2.05.**

422 Election votes.

423 The candidates for mayor and Council Posts 4, 5, and 6 who receive a majority vote of the  
 424 qualified electors of the city at large voting at the elections of the city shall be elected to a  
 425 term of office. The candidates for Council Posts 1, 2, and 3 who receive a majority vote of  
 426 the qualified electors of Council Districts 1, 2, and 3, respectively, voting at the elections of  
 427 the city shall be elected to a term of office.

428 **SECTION 2.06.**

429 Applicability of general laws; qualifying; other provisions.

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

435 Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter  
 436 amended or otherwise provided by law.

437 **SECTION 2.07.**

438 Compensation and expenses.

439 The annual salary of the mayor shall be \$16,000.00 and the annual salary for each  
 440 councilmember shall be \$12,000.00. Such salaries shall be paid from municipal funds in  
 441 monthly installments. The mayor shall be provided an annual expense allowance of  
 442 \$5,000.00 and each councilmember shall be provided an annual expense allowance of  
 443 \$3,000.00 for the reimbursement of expenses actually and necessarily incurred by the mayor  
 444 and councilmembers in carrying out their duties as elected officials of the city.

445 **SECTION 2.08.**

446 Inquiries and investigations.

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

452 **SECTION 2.09.**

453 Meetings, oath of office, and mayor pro tempore.

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

459 "I do solemnly swear (or affirm) that I will faithfully execute the office of [councilmember  
 460 or mayor, as the case may be] of the City of Brookhaven, and will to the best of my ability  
 461 support and defend the Constitution of the United States, the Constitution of Georgia, and  
 462 the charter, ordinances, and regulations of the City of Brookhaven. I am not the holder of  
 463 any unaccounted for public money due this state or any political subdivision or authority  
 464 thereof. I am not the holder of any office of trust under the government of the United  
 465 States, any other state, or any foreign state which I by the laws of the State of Georgia am

466 prohibited from holding. I am otherwise qualified to hold said office according to the  
 467 Constitution and laws of Georgia. I have been a resident of my district and the City of  
 468 Brookhaven for the time required by the Constitution and laws of this state and by the  
 469 municipal charter. I will perform the duties of my office in the best interests of the City  
 470 of Brookhaven to the best of my ability without fear, favor, affection, reward, or  
 471 expectation thereof."

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

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

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

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

497 **SECTION 2.10.**

498 **Quorum; voting.**

499 (a) Four councilmembers shall constitute a quorum and shall be authorized to transact  
 500 business for the city council. Voting on the adoption of ordinances shall be taken by voice

501 vote and the yeas and nays shall be recorded in the minutes, but on the request of any  
 502 member, there shall be a roll-call vote. In order for any ordinance, resolution, motion, or  
 503 other action of the city council to be adopted, the measure must receive at least three  
 504 affirmative votes and must receive the affirmative votes of a majority of those voting. No  
 505 member of the city council shall abstain from voting on any matter properly brought before  
 506 the city council for official action except when such councilmember has a conflict of interest  
 507 which is disclosed in writing prior to or at the meeting and made a part of the minutes. Any  
 508 member of the city council present and eligible to vote on a matter and refusing to do so for  
 509 any reason, other than a properly disclosed and recorded conflict of interest, shall be deemed  
 510 to have acquiesced or concurred with the members of the majority who did vote on the  
 511 question involved. The mayor shall vote only in the case of a tie or in the case where his or  
 512 her vote will provide the number of votes necessary for approval of a matter.

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

- 514 (1) Adopting or amending an administrative code or establishing, altering or abolishing
- 515 a department, office not specified in this charter, or agency;
- 516 (2) Providing a fine or other penalty;
- 517 (3) Levying taxes;
- 518 (4) Granting, renewing, or extending a franchise;
- 519 (5) Regulating a rate for a public utility;
- 520 (6) Authorizing the borrowing of money;
- 521 (7) Conveying, leasing, or encumbering city land;
- 522 (8) Regulating land use and development; and
- 523 (9) Amending or repealing an ordinance already adopted.

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

- 528 (1) Levy taxes;
- 529 (2) Grant, renew, or extend a franchise;
- 530 (3) Regulate a rate for a public utility; or
- 531 (4) Borrow money.

532

**SECTION 2.11.**

533

## General power and authority of the city council.

534

(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 Brookhaven as provided by Article I of this charter.

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(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 Brookhaven and may enforce such ordinances by imposing penalties for violation thereof.

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**SECTION 2.12.**

545

## Administrative and service departments.

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(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.

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

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**SECTION 2.13.**

561

## Prohibitions.

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

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- 564 (1) Engage in any business or transaction or have a financial or other personal interest,  
565 direct or indirect, which is incompatible with the proper discharge of official duties or  
566 which would tend to impair the independence of his or her judgment or action in the  
567 performance of official duties;
- 568 (2) Engage in or accept private employment or render services for private interests when  
569 such employment or service is incompatible with the proper discharge of official duties  
570 or would tend to impair the independence of his or her judgment or action in the  
571 performance of official duties;
- 572 (3) Disclose confidential information concerning the property, government, or affairs of  
573 the governmental body by which engaged without proper legal authorization or use such  
574 information to advance the financial or other private interest of himself or herself or  
575 others, except as required by law;
- 576 (4) Accept any valuable gift, whether in the form of service, loan, object, or promise,  
577 from any person, firm, or corporation which to his or her knowledge is interested, directly  
578 or indirectly, in any manner whatsoever in business dealings with the governmental body  
579 by which he or she is engaged. "Valuable" shall be an amount determined by the city  
580 council; provided, however, that the amount shall not exceed \$100.00;
- 581 (5) Represent other private interests in any action or proceeding against this city or any  
582 portion of its government; or
- 583 (6) Vote or otherwise participate in the negotiation or in the making of any contract with  
584 any business or entity in which he or she, or members of his or her immediate family, has  
585 a financial interest.
- 586 (b) Any elected official, appointed officer, or employee who has any private financial  
587 interest, directly or indirectly, in any contract or matter pending before or within any  
588 department of the city shall disclose such private interest to the city council. "Private  
589 financial interest" shall include interests of immediate family. The mayor or any  
590 councilmember who has a private interest in any matter pending before the city council shall  
591 disclose in writing such private interest and such disclosure shall be entered on the records  
592 of the city council, and he or she shall disqualify himself or herself from participating in any  
593 decision or vote relating thereto. Any elected official, appointed officer, or employee of any  
594 agency or political entity to which this charter applies who shall have any private financial  
595 interest, directly or indirectly, in any contract or matter pending before or within such entity  
596 shall disclose such private interest to the governing body of such agency or entity.
- 597 (c) No elected official, appointed officer, or employee of the city or any agency or entity to  
598 which this charter applies shall use property owned by such governmental entity for personal  
599 benefit, convenience, or profit, except in accordance with policies promulgated by the city  
600 council or the governing body of such agency or entity.

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

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

607 **SECTION 2.14.**

608 Boards, commissions, and authorities.

609 (a) All members of boards, commissions, and authorities of the city shall be appointed by  
 610 the mayor subject to confirmation by the city council for such terms of office and such  
 611 manner of appointment as provided by ordinance, except where other appointing authority,  
 612 term of office, or manner of appointment is prescribed by this charter or by applicable state  
 613 law.

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

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

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

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

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

629 (g) Except as otherwise provided by this charter or by applicable state law, each board,  
 630 commission, or authority of the city government shall elect one of its members as  
 631 chairperson and one member as vice chairperson for terms of one year and may elect as its  
 632 secretary one of its own members or may appoint as secretary an employee of the city. Each  
 633 board, commission, or authority of the city government may establish such bylaws, rules, and  
 634 regulations not inconsistent with this charter, ordinances of the city, or applicable state law

635 as it deems appropriate and necessary for the conduct of its affairs, copies of which shall be  
636 filed with the designated officer of the city.

637 **SECTION 2.15.**

638 Ordinance form; procedures.

639 (a) Every proposed ordinance and resolution shall be introduced in writing and the city  
640 council shall have the authority to approve, disapprove, or amend the same. A resolution  
641 may be passed at the time it is offered, but an ordinance shall not be adopted until the title  
642 of said ordinance shall have been read at two city council meetings, provided that the  
643 beginnings of said meetings are not less than 24 hours nor more than 60 days apart. This  
644 requirement of two readings shall not apply to emergency ordinances, to ordinances passed  
645 during the first 90 days from the date on which the city begins operation, to ordinances  
646 adopted at the first business meeting of the city council in a calendar year, or to ordinances  
647 adopted at the first meeting of the initial city council elected under subsection (b) of Section  
648 2.02 of this charter. The catchlines of sections of this charter or any ordinance printed in  
649 boldface type, italics, or otherwise are intended as mere catchwords to indicate the contents  
650 of the section, and:

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

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

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

662 **SECTION 2.16.**

663 Submission of ordinances to the city clerk.

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

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

670 ARTICLE III  
671 EXECUTIVE BRANCH

672 SECTION 3.01.

673 Powers and duties of the mayor.

674 (a) The mayor shall:

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

676 (2) Set the agenda for meetings of the city council; provided, however, that additional  
677 items shall be added to the agenda upon the written request of any two members of the  
678 city council;

679 (3) Serve as the ceremonial head of the city and as its official representative to federal,  
680 state, and local governmental bodies and officials;

681 (4) Sign all orders, checks, and warrants for payment of money within a level of  
682 authorization as established by the city council;

683 (5) Execute all contracts, deeds, and other obligations of the city within a level of  
684 authorization as established by the city council;

685 (6) Vote in matters before the city council to the extent provided in subsection (a) of  
686 Section 2.10 of this charter;

687 (7) Make all appointments of city officers as provided by this charter, subject to  
688 confirmation by the city council;

689 (8) Serve in a part-time capacity and be compensated accordingly; and

690 (9) Perform any other duties and exercise any other powers required by state or federal  
691 law or authorized by a duly adopted ordinance that is not in conflict with this charter.

692 (b) The mayor shall have the authority to transfer appropriations within a department, fund,  
693 service, strategy, or organizational unit but only with approval of the city council.

694 (c) The mayor shall have the authority to certify that a supplemental appropriation is  
695 possible due to unexpected revenue increases but only with approval of the city council.

696 (d) The mayor shall have all of the powers specifically granted to the mayor elsewhere in  
697 this charter regardless of whether such powers are enumerated in this section.

698

**SECTION 3.02.**

699

City manager; appointment and qualification.

700

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.

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**SECTION 3.03.**

705

City manager; chief administrative officer.

706

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.

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**SECTION 3.04.**

711

City manager; powers and duties enumerated.

712

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

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

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

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(3) Remove employees appointed and employed under paragraph (2) of this section without the consent of the city council and without assigning any reason therefor;

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(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;

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(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;

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(6) Recommend to the city council, after prior review and comment by the mayor, for adoption of such measures as the city manager may deem necessary or expedient;

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- 730 (7) See that all terms and conditions imposed in favor of the city or its inhabitants in any  
 731 public utility franchise are faithfully kept and performed and upon knowledge of any  
 732 violation thereof to call the same to the attention of the city attorney, whose duty it shall  
 733 be forthwith to take such steps as are necessary to protect and enforce the same;
- 734 (8) Make and execute all lawful contracts on behalf of the city as to matters within the  
 735 city manager's level of authorization as established by the city council to the extent that  
 736 such contracts are funded in the city's budget, except such as may be otherwise provided  
 737 by law; provided, however, that no contract purchase or obligation requiring a budget  
 738 amendment shall be valid and binding until after approval of the city council;
- 739 (9) Sign all orders, checks, and warrants for payment of money within the city manager's  
 740 level of authorization as established by the city council to the extent that such contracts  
 741 are funded in the city's budget, except such as may be otherwise provided by law;  
 742 provided, however, that no such order, check, or warrant requiring a budget amendment  
 743 shall be valid and binding until after approval of the city council;
- 744 (10) Act as budget officer to prepare and submit to the city council, after review and  
 745 comment by the mayor, prior to the beginning of each fiscal year a budget of proposed  
 746 expenditures for the ensuing year, showing in as much detail as practicable the amounts  
 747 allotted to each department of the city government and the reasons for such estimated  
 748 expenditures;
- 749 (11) Keep the city council at all times fully advised as to the financial condition and  
 750 needs of the city;
- 751 (12) Make a full written report to the city council on the fifteenth of each month showing  
 752 the operations and expenditures of each department of the city government for the  
 753 preceding month, and a synopsis of such reports shall be published by the city clerk;
- 754 (13) Fix all salaries and compensation of city employees in accordance with the city  
 755 budget and the city pay and classification plan; and
- 756 (14) Perform such other duties as may be prescribed by this charter or required by  
 757 ordinance or resolution of the city council.

758 **SECTION 3.05.**

759 City council interference with administration.

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

765

**SECTION 3.06.**

766

City manager; removal.

767

(a) The mayor and city council may suspend the city manager from office by a vote at least four members. The mayor and city council, by a vote of at least four members, may remove the city manager from office at a subsequent meeting of the city council held on a different day following the suspension of the city manager. The mayor shall be permitted to vote on the suspension and removal of the city manager notwithstanding the provisions of subsection (a) of Section 2.10 of this charter. This provision may be supplemented, but not supplanted, by an employment contract of the city manager which provides for additional procedures for suspension or removal from office.

775

(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.

778

(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.

784

**SECTION 3.07.**

785

Acting city manager.

786

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

790

(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.

793

**SECTION 3.08.**

794

City attorney.

795

The mayor shall appoint the city attorney together with such assistant city attorneys as may be deemed appropriate subject to confirmation by the city council and shall provide for the

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797 payment of such attorney for services rendered to the city. The rates or salary paid to any  
 798 city attorney or assistant city attorney shall be approved in advance by the city council. The  
 799 city attorney shall be responsible for representing and defending the city in all litigation in  
 800 which the city is a party; may be the prosecuting officer in the municipal court; shall attend  
 801 the meetings of the city council as directed; shall advise the city council, mayor, other  
 802 officers, and employees of the city concerning legal aspects of the city's affairs; and shall  
 803 perform such other duties as may be required by virtue of his or her position as city attorney.  
 804 The city attorney shall review all contracts of the city but shall not have the power to bind  
 805 the city.

806 **SECTION 3.09.**

807 City clerk.

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

812 **SECTION 3.10.**

813 City accountant.

814 The mayor may appoint a city accountant subject to confirmation by the city council to  
 815 perform the duties of an accountant. The city accountant shall also act as tax collector to  
 816 collect all taxes, licenses, fees, and other moneys belonging to the city subject to the  
 817 provisions of this charter and the ordinances of the city; and such tax collector shall  
 818 diligently comply with and enforce all general laws of Georgia relating to the collection, sale,  
 819 or foreclosure of taxes by municipalities.

820 **SECTION 3.11.**

821 City internal auditor.

822 The city council shall appoint an internal auditor to audit the financial records and  
 823 expenditures of city funds and to report the results of such audits in writing to the city  
 824 council at times and intervals set by the city council but no less than quarterly. Such audit  
 825 reports shall, at a minimum, identify all city expenditures and other financial matters that the  
 826 internal auditor either determines are not in compliance with or cannot conclusively be  
 827 determined to be in compliance with the provisions of this charter, the applicable city budget,

828 and applicable ordinances, resolutions, or other actions duly adopted or approved under the  
 829 provisions of this charter.

830 **SECTION 3.12.**

831 Consolidation of functions.

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

837 **SECTION 3.13.**

838 Position classification and pay plans; employment at will.

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

847 **ARTICLE IV**

848 **MUNICIPAL COURT**

849 **SECTION 4.01.**

850 Creation.

851 There is established a court to be known as the Municipal Court of the City of Brookhaven  
 852 which shall have jurisdiction and authority to try offenses against the laws and ordinances  
 853 of said city and to punish for a violation of the same. Such court shall have the power to  
 854 enforce its judgments by the imposition of such penalties as may be provided by law,  
 855 including ordinances of the city; to punish witnesses for nonattendance and to punish also  
 856 any person who may counsel or advise, aid, encourage, or persuade another whose testimony  
 857 is desired or material in any proceeding before said court to go or move beyond the reach of  
 858 the process of the court; to try all offenses within the territorial limits of the city constituting

859 traffic cases which, under the laws of Georgia, are placed within the jurisdiction of municipal  
 860 courts to the extent of, and in accordance with, the provisions of such laws and all laws  
 861 subsequently enacted amendatory thereof. Said court shall be presided over by the judge of  
 862 said court. In the absence or disqualification of the judge, the judge pro tempore shall  
 863 preside and shall exercise the same powers and duties as the judge when so acting.

864 **SECTION 4.02.**

865 Judge.

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

871 (b) The judge pro tempore shall serve as requested by the judge, shall have the same  
 872 qualifications as the judge, shall be nominated by the mayor subject to approval of the city  
 873 council, and shall take the same oath as the judge.

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

879 (d) The judge, or judge pro tempore, shall serve for a term of two years but may be removed  
 880 from the position by a two-thirds' vote of the entire membership of the city council or shall  
 881 be removed upon action taken by the Judicial Qualifications Commission for:

882 (1) Willful misconduct in office;

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

884 (3) Habitual intemperance;

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

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

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**SECTION 4.03.**

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Convening.

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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.

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**SECTION 4.04.**

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Jurisdiction; powers.

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(a) The municipal court shall try and punish for crimes against the City of Brookhaven 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.

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(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.

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(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 Brookhaven, or the property so deposited shall have a lien against it for the value forfeited.

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(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.

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(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.

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

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

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921 **SECTION 4.05.**

922 Certiorari.

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

927 **SECTION 4.06.**

928 Rules for court.

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

932 **ARTICLE V**  
933 **FINANCE AND FISCAL**

934 **SECTION 5.01.**

935 Fiscal year.

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

940 **SECTION 5.02.**

941 Preparation of budgets.

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

945 **SECTION 5.03.**

946 Submission of operating budget to city council.

947 (a) On or before a date fixed by the city council, but no later than 45 days prior to the end  
948 of the current fiscal year, the city manager shall, after input, review, and comment by the

949 mayor, submit to the city council a proposed operating budget and capital budget for the  
 950 ensuing fiscal year. The budget shall be accompanied by a message from the mayor and city  
 951 manager containing a statement of the general fiscal policies of the city, the important  
 952 features of the budget, explanations of major changes recommended for the next fiscal year,  
 953 a general summary of the budget, and such other comments and information as they may  
 954 deem pertinent. The operating budget, capital budget, budget message, and all supporting  
 955 documents shall be filed in the office of the city manager and shall be open to public  
 956 inspection.

957 (b) In each year of the city's operation, the city manager and mayor shall present to the city  
 958 council a budget which is balanced in projected spending and revenues.

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

963 (d) All unencumbered balances of appropriations in the current operating budget at the end  
 964 of the fiscal year shall lapse into the unappropriated surplus or reserves of the fund or funds  
 965 from which such appropriations were made. When a supplemental appropriation is certified  
 966 by the mayor to exist pursuant to subsection (c) of Section 3.01 of this charter, these  
 967 appropriations can be spent during the current fiscal year following passage of a  
 968 supplemental appropriation ordinance.

969 **SECTION 5.04.**

970 Action by city council on budget.

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

977 (b) The city council shall adopt a budget on or before the last day of the current fiscal year.  
 978 If the city council fails to adopt the budget by the prescribed deadline, the operating budget  
 979 and capital budget proposed by the mayor and city manager shall be adopted without further  
 980 action by the city council.

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**SECTION 5.05.**

Procurement and property management.

No contract with the city shall be binding on the city unless it is in writing. The city council may adopt procedures for the authorization of certain contracts without 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.

**SECTION 5.06.**

Purchasing.

The city council shall by ordinance prescribe procedures for a system of centralized purchasing for the city in accordance with recognized public purchasing standards and with the requirements of state law.

**SECTION 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, general audit standards, and state law. 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.

**SECTION 5.08.**

Homestead exemption; freeze.

- (a) As used in this section, the term:
  - (1) "Ad valorem taxes for municipal purposes" means all municipal ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Brookhaven, including, but not limited to, ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

1011 (2) "Base year" means the taxable year immediately preceding the taxable year in which  
1012 the exemption under this section is first granted to the most recent owner of such  
1013 homestead.

1014 (3) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of  
1015 the O.C.G.A., as amended, with the additional qualification that it shall include not more  
1016 than five contiguous acres of homestead property.

1017 (b) Each resident of the City of Brookhaven is granted an exemption on that person's  
1018 homestead from City of Brookhaven ad valorem taxes for municipal purposes in an amount  
1019 equal to the amount by which the current year assessed value of that homestead exceeds the  
1020 base year assessed value of that homestead. This exemption shall not apply to taxes assessed  
1021 on improvements to the homestead or additional land that is added to the homestead after  
1022 January 1 of the base year. If any real property is added to or removed from the homestead,  
1023 the base year assessed value shall be adjusted to reflect such addition or removal, and the  
1024 exemption shall be recalculated accordingly. The value of that property in excess of such  
1025 exempted amount shall remain subject to taxation.

1026 (c) A person shall not receive the homestead exemption granted by subsection (b) of this  
1027 section unless the person or person's agent files an application with the governing authority  
1028 of the City of Brookhaven, or the designee thereof, giving such information relative to  
1029 receiving such exemption as will enable the governing authority of the City of Brookhaven,  
1030 or the designee thereof, to make a determination regarding the initial and continuing  
1031 eligibility of such owner for such exemption. The governing authority of the City of  
1032 Brookhaven, or the designee thereof, shall provide application forms for this purpose.

1033 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of  
1034 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year  
1035 so long as the owner occupies the residence as a homestead. After a person has filed the  
1036 proper application as provided in subsection (c) of this section, it shall not be necessary to  
1037 make application thereafter for any year, and the exemption shall continue to be allowed to  
1038 such person. It shall be the duty of any person granted the homestead exemption under  
1039 subsection (b) of this section to notify the governing authority of the City of Brookhaven, or  
1040 the designee thereof, in the event that person for any reason becomes ineligible for that  
1041 exemption.

1042 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state  
1043 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent  
1044 school district ad valorem taxes for educational purposes. The homestead exemption granted  
1045 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead  
1046 exemption applicable to municipal ad valorem taxes for municipal purposes.

1047 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years  
 1048 beginning on or after January 1, 2013.

1049 **SECTION 5.09.**

1050 Homestead exemption; senior citizens; disabled.

1051 (a) As used in this section, the term:

1052 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal  
 1053 purposes levied by, for, or on behalf of the City of Brookhaven, including, but not limited  
 1054 to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

1055 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of  
 1056 the O.C.G.A., as amended.

1057 (3) "Income" means Georgia taxable net income determined pursuant to Chapter 7 of  
 1058 Title 48 of the O.C.G.A., as amended, for state income tax purposes, except income shall  
 1059 not include income received as retirement, survivor, or disability benefits under the  
 1060 federal Social Security Act or under any other public or private retirement, disability, or  
 1061 pension system, except such income which is in excess of the maximum amount  
 1062 authorized to be paid to an individual and such individual's spouse under the federal  
 1063 Social Security Act. Income from such sources in excess of such maximum amount shall  
 1064 be included as income for the purposes of this Act.

1065 (4) "Senior citizen" means a person who is 65 years of age or over on or before January 1  
 1066 of the year in which application for the exemption under subsection (b) of this section is  
 1067 made.

1068 (b) Each resident of the City of Brookhaven who is disabled or is a senior citizen is granted  
 1069 an exemption on that person's homestead from City of Brookhaven ad valorem taxes for  
 1070 municipal purposes in the amount of \$14,000.00 of the assessed value of that homestead.  
 1071 The exemption granted by this subsection shall only be granted if that person's income,  
 1072 together with the income of the spouse who also occupies and resides at such homestead does  
 1073 not exceed \$15,000.00 for the immediately preceding year. The value of that property in  
 1074 excess of such exempted amount shall remain subject to taxation.

1075 (c)(1) In order to qualify for the exemption provided for in subsection (b) of this section  
 1076 as being disabled, the person claiming such exemption shall be required to obtain a  
 1077 certificate from not more than three physicians licensed to practice medicine under  
 1078 Chapter 34 of Title 43 of the O.C.G.A., as amended, certifying that in the opinion of such  
 1079 physician or physicians such person is mentally or physically incapacitated to the extent  
 1080 that such person is unable to be gainfully employed and that such incapacity is likely to

1081 be permanent. Such certificate or certificates shall constitute part of and be submitted  
 1082 with the application provided for in paragraph (2) of this subsection.

1083 (2) A person shall not receive the homestead exemption granted by subsection (b) of this  
 1084 section unless the person or person's agent files an application with the governing  
 1085 authority of the City of Brookhaven, or the designee thereof, giving the person's age,  
 1086 income, and such additional information relative to receiving such exemption as will  
 1087 enable the governing authority of the City of Brookhaven, or the designee thereof, to  
 1088 make a determination regarding the initial and continuing eligibility of such owner for  
 1089 such exemption. The governing authority of the City of Brookhaven, or the designee  
 1090 thereof, shall provide application forms for this purpose.

1091 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of  
 1092 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year  
 1093 so long as the owner occupies the residence as a homestead. After a person has filed the  
 1094 proper application, as provided in subsection (c) of this section, it shall not be necessary to  
 1095 make application thereafter for any year and the exemption shall continue to be allowed to  
 1096 such person. It shall be the duty of any person granted the homestead exemption under  
 1097 subsection (b) of this section to notify the governing authority of the City of Brookhaven, or  
 1098 the designee thereof, in the event that person for any reason becomes ineligible for that  
 1099 exemption.

1100 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state  
 1101 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent  
 1102 school district ad valorem taxes for educational purposes. The homestead exemption granted  
 1103 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead  
 1104 exemption applicable to municipal ad valorem taxes for municipal purposes.

1105 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years  
 1106 beginning on or after January 1, 2013.

1107 **SECTION 5.10.**

1108 Homestead exemption; general.

1109 (a) As used in this section, the term:

1110 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal  
 1111 purposes levied by, for, or on behalf of the City of Brookhaven, including, but not limited  
 1112 to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

1113 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of  
 1114 the O.C.G.A., as amended.

1115 (b) Each resident of the City of Brookhaven is granted an exemption on that person's  
 1116 homestead from City of Brookhaven ad valorem taxes for municipal purposes in the amount  
 1117 of \$20,000.00 of the assessed value of that homestead. The value of that property in excess  
 1118 of such exempted amount shall remain subject to taxation.

1119 (c) A person shall not receive the homestead exemption granted by subsection (b) of this  
 1120 section unless the person or person's agent files an application with the governing authority  
 1121 of the City of Brookhaven, or the designee thereof, giving such information relative to  
 1122 receiving such exemption as will enable the governing authority of the City of Brookhaven,  
 1123 or the designee thereof, to make a determination regarding the initial and continuing  
 1124 eligibility of such owner for such exemption. The governing authority of the City of  
 1125 Brookhaven, or the designee thereof, shall provide application forms for this purpose.

1126 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of  
 1127 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year  
 1128 so long as the owner occupies the residence as a homestead. After a person has filed the  
 1129 proper application, as provided in subsection (c) of this section, it shall not be necessary to  
 1130 make application thereafter for any year and the exemption shall continue to be allowed to  
 1131 such person. It shall be the duty of any person granted the homestead exemption under  
 1132 subsection (b) of this section to notify the governing authority of the City of Brookhaven, or  
 1133 the designee thereof, in the event that person for any reason becomes ineligible for that  
 1134 exemption.

1135 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state  
 1136 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent  
 1137 school district ad valorem taxes for educational purposes. The homestead exemption granted  
 1138 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead  
 1139 exemption applicable to municipal ad valorem taxes for municipal purposes.

1140 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years  
 1141 beginning on or after January 1, 2013.

#### 1142 **SECTION 5.11.**

1143 Homestead exemption; surviving spouses.

1144 (a) As used in this section, the term:

1145 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal  
 1146 purposes levied by, for, or on behalf of the City of Brookhaven, including, but not limited  
 1147 to, ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

1148 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of  
 1149 the O.C.G.A., as amended.

1150 (3) "Unremarried surviving spouse" of a member of the armed forces includes the  
1151 unmarried widow or widower of a member of the armed forces who is receiving spousal  
1152 benefits from the United States Department of Veterans Affairs.

1153 (b) Any person who is a resident of the City of Brookhaven and who is an unremarried  
1154 surviving spouse of a member of the armed forces of the United States who has been killed  
1155 in or has died as a result of any war or armed conflict in which the armed forces of the United  
1156 States engaged, whether under United States command or otherwise, shall be granted a  
1157 homestead exemption from all City of Brookhaven ad valorem taxation for municipal  
1158 purposes in the amount of the greater of \$32,500.00 or the maximum amount which may be  
1159 granted to a disabled veteran under Section 2102 of Title 38 of the United States Code, as  
1160 amended. The exemption shall be on the homestead which the unremarried surviving spouse  
1161 owns and actually occupies as a residence and homestead. In the event such surviving  
1162 spouse remarries, such person shall cease to be qualified to continue the exemption under this  
1163 section effective December 31 of the taxable year in which such person remarries. The value  
1164 of all property in excess of such exemption granted to such unremarried surviving spouse  
1165 shall remain subject to taxation.

1166 (c) In order to qualify for the exemption provided for in this section, the unremarried  
1167 surviving spouse shall furnish to the governing authority of the City of Brookhaven, or the  
1168 designee thereof, documents from the United States Secretary of Defense evidencing that  
1169 such unremarried surviving spouse receives spousal benefits as a result of the death of such  
1170 person's spouse who as a member of the armed forces of the United States was killed or died  
1171 as a result of a war or armed conflict while on active duty or while performing authorized  
1172 travel to or from active duty during such war or armed conflict in which the armed forces of  
1173 the United States engaged, whether under United States command or otherwise, pursuant to  
1174 the Survivor Benefit Plan under Subchapter II of Chapter 73 of Title 10 of the United States  
1175 Code or pursuant to any preceding or subsequent federal law which provides survivor  
1176 benefits for spouses of members of the armed forces who were killed or who died as a result  
1177 of any war or armed conflict.

1178 (d) An unremarried surviving spouse filing for the exemption under this section shall be  
1179 required to file with the governing authority of the City of Brookhaven, or the designee  
1180 thereof, information relative to marital status and other such information which the governing  
1181 authority of the City of Brookhaven, or the designee thereof, deems necessary to determine  
1182 eligibility for the exemption. Each unremarried surviving spouse shall file for the exemption  
1183 only once with the governing authority of the City of Brookhaven, or the designee thereof.  
1184 Once filed, the exemption shall automatically be renewed from year to year, except that the  
1185 governing authority of the City of Brookhaven, or the designee thereof, may require annually  
1186 that the holder of an exemption substantiate his or her continuing eligibility for the

1187 exemption. It shall be the duty of any person granted the homestead exemption under this  
 1188 section to notify the governing authority of the City of Brookhaven, or the designee thereof,  
 1189 in the event that person for any reason becomes ineligible for such exemption.

1190 (e) The exemption granted by this section shall be in lieu of and not in addition to any other  
 1191 exemption from ad valorem taxation for municipal purposes which is equal to or lower in  
 1192 amount than such exemption granted by this section. If the amount of any other exemption  
 1193 from ad valorem taxation for municipal purposes applicable to any resident qualifying under  
 1194 this section is greater than or is increased to an amount greater than the amount of the  
 1195 applicable exemption granted by this section, such other exemption shall apply and shall be  
 1196 in lieu of and not in addition to the exemption granted by this section.

1197 (f) The exemptions granted by this section shall apply to all tax years beginning on or after  
 1198 January 1, 2013.

1199 **ARTICLE VI**  
 1200 **GENERAL PROVISIONS.**

1201 **SECTION 6.01.**

1202 DeKalb County Special Services Tax District.

1203 For the taxable years beginning on or after January 1, 2013, the adjusted ad valorem tax  
 1204 millage rate and amount for service charges or fees for district services for the Brookhaven  
 1205 special services tax district shall be zero percent. This section is enacted pursuant to the  
 1206 authority granted to the General Assembly under Section 1 of that local constitutional  
 1207 amendment providing that certain municipalities in DeKalb County shall constitute special  
 1208 services tax districts, Resolution Act. No. 168; House Resolution No. 715-1916; Ga. L. 1978,  
 1209 p. 2468, to control the subject matter of such local constitutional amendment. Municipal  
 1210 services provided by DeKalb County for the City of Brookhaven will be established through  
 1211 intergovernmental agreements or established as otherwise authorized by statute.

1212 **SECTION 6.02.**

1213 Referendum and initial election.

1214 (a) Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election  
 1215 superintendent of DeKalb County shall call a special election for the purpose of submitting  
 1216 this Act to the qualified voters of the proposed City of Brookhaven for approval or rejection.  
 1217 The superintendent shall set the date of such election for the date of the general primary  
 1218 in 2012. The superintendent shall issue the call for such election at least 30 days prior to the  
 1219 date thereof. The superintendent shall cause the date and purpose of the election to be

1220 published once a week for two weeks immediately preceding the date thereof in the official  
 1221 organ of DeKalb County. The ballot shall have written or printed thereon the words:

1222 "( ) YES Shall the Act incorporating the City of Brookhaven in DeKalb County  
 1223 according to the charter contained in the Act and the homestead exemptions  
 1224 ( ) NO described in the Act be approved?"

1225 All persons desiring to vote for approval of the Act shall vote "Yes," and those persons  
 1226 desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes  
 1227 cast on such question are for approval of the Act, it shall become of full force and effect as  
 1228 provided in this charter, otherwise it shall be void and of no force and effect. The initial  
 1229 expense of such election shall be borne by DeKalb County. Within two years after the  
 1230 elections if the incorporation is approved, the City of Brookhaven shall reimburse DeKalb  
 1231 County for the actual cost of printing and personnel services for such election and for the  
 1232 initial election of the mayor and councilmembers pursuant to Section 2.02 of this charter.  
 1233 It shall be the duty of the superintendent to hold and conduct such election. It shall be his  
 1234 or her further duty to certify the result thereof to the Secretary of State.

1235 (b) For the purposes of the referendum election provided for in subsection (a) of this section  
 1236 and for the purposes of the special election of the City of Brookhaven to be held on the  
 1237 Tuesday after the first Monday in November, 2012, the qualified electors of the City of  
 1238 Brookhaven shall be those qualified electors of DeKalb County residing within the corporate  
 1239 limits of the City of Brookhaven as described by Appendix A of this charter. At subsequent  
 1240 municipal elections, the qualified electors of the City of Brookhaven shall be determined  
 1241 pursuant to the authority of Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election  
 1242 Code."

1243 (c) Only for the purposes of holding and conducting the referendum election provided for  
 1244 by subsection (a) of this section and holding and conducting the special election of the City  
 1245 of Brookhaven to be held on the Tuesday after the first Monday in November, 2012, the  
 1246 election superintendent of DeKalb County is vested with the powers and duties of the  
 1247 election superintendent of the City of Brookhaven and the powers and duties of the  
 1248 governing authority of the City of Brookhaven.

### 1249 **SECTION 6.03.**

1250 **Effective dates and transition.**

1251 (a) The initial mayor and councilmembers shall take the oath of office the next business day  
 1252 after certification of the election of such officers, and by action of any four members of the  
 1253 governing authority may, prior to December 17, 2012, meet and take actions binding on the  
 1254 city.

1255 (b) A period of time will be needed for an orderly transition of various government functions  
1256 from DeKalb County to the City of Brookhaven. Accordingly there shall be a two-year  
1257 transition period as allowed by law beginning at 12:01 A.M. on December 17, 2012.

1258 (c) During such transition period, DeKalb County shall continue to provide within the  
1259 territorial limits of the city all government services and functions which DeKalb County  
1260 provided prior to such date in 2012 and at the same actual direct cost and level of service,  
1261 except to the extent otherwise provided in this section; provided, however, that upon at least  
1262 30 days' prior written notice to the governing authority of DeKalb County by the governing  
1263 authority of City of Brookhaven, responsibility for any such service or function shall be  
1264 transferred to the City of Brookhaven. The governing authority of the City of Brookhaven  
1265 shall determine the date of commencement of collection of taxes, fees, assessments, fines,  
1266 and forfeitures, and other moneys within the territorial limits of the city and the date upon  
1267 which the City of Brookhaven is considered removed from the special tax district.

1268 (d) During the transition period, the governing authority of the City of Brookhaven may  
1269 generally exercise any power granted by this charter or general law, except to the extent that  
1270 a power is specifically and integrally related to the provision of a governmental service,  
1271 function, or responsibility not yet provided or carried out by the city.

1272 (e) During the transition period, all ordinances of DeKalb County shall remain applicable  
1273 within the territorial limits of the city unless otherwise amended, repealed, or replaced by the  
1274 City of Brookhaven. Any transfer of jurisdiction to the City of Brookhaven during or at the  
1275 end of the transition period shall not in and of itself abate any judicial proceeding pending  
1276 in DeKalb County or the pending prosecution of any violation of any ordinance of DeKalb  
1277 County.

1278 (f) During the transition period, the governing authority of the City of Brookhaven may at  
1279 any time, without the necessity of any agreement by DeKalb County, commence to exercise  
1280 its planning and zoning powers; provided, however, that the city shall give the county notice  
1281 of the date on which the city will assume the exercise of such powers. Upon the governing  
1282 authority of the City of Brookhaven commencing to exercise its planning and zoning powers,  
1283 the Municipal Court of the City of Brookhaven shall immediately have jurisdiction to enforce  
1284 the planning and zoning ordinances of the city. The provisions of this subsection shall control  
1285 over any conflicting provisions of any other subsection of this section.

1286 (g) Effective upon the termination of the transition period, subsections (b) through (f) of this  
1287 section shall cease to apply except for the last sentence of subsection (e) which shall remain  
1288 effective. Effective upon the termination of the transition period, the City of Brookhaven  
1289 shall be a full functioning municipal corporation and subject to all general laws of this state.

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**SECTION 6.04.**

Directory nature of dates.

It is the intention of the General Assembly that this Act be construed as directory rather than mandatory with respect to any date prescribed in this Act. If it is necessary to delay any action called for in this Act for providential cause, 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 21, 2012, 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 21, 2012, 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, 2012, the city council shall be authorized to delay the dates otherwise specified in Section 6.03 of this Act.

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**SECTION 6.05.**

Transition task force.

After the close of the qualifying period for the first election for mayor and city council, each state representative and state senator whose district includes all or part of the territory embraced within the City of Brookhaven, except for a state representative or state senator whose district contains only a road or a portion of a road in the City of Brookhaven, shall each appoint one member to serve on the transition task force. Such appointees shall be residents of the territory of such representative or senator's district located within the City of Brookhaven and cannot be candidates for the office of mayor or city council in such initial election. All meetings of the transition task force shall be subject to Chapter 14 of Title 50 of the O.C.G.A. regarding open and public meetings as it now exists or is

1323 subsequently amended. The task force shall prepare and present a written report to the new  
1324 mayor and city council on the following matters:

1325 (1) Backgrounds and qualifications of possible candidates for the positions of city  
1326 manager, city attorney, city clerk, and city accountant;

1327 (2) A proposed plan for cost-effectively privatizing the delivery of as many city services  
1328 as practicable based upon the best practices of other municipalities; and

1329 (3) Possible locations and pricing for leased city office facilities.

1330 Such report shall be made public via the Internet on the day immediately following the  
1331 general election date of the mayor and city council and shall be delivered to the newly  
1332 elected mayor and city council. After publication and delivery of the report, the transition  
1333 task force shall stand dissolved.

1334 **SECTION 6.06.**

1335 Severability.

1336 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared  
1337 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other  
1338 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full  
1339 force and effect, as if the section, subsection, sentence, clause, or phrase so declared or  
1340 adjudged invalid or unconstitutional were not originally a part hereof. The General  
1341 Assembly hereby declares that it would have passed the remaining parts of this Act if it had  
1342 known that such part or parts hereof would be declared or adjudged invalid or  
1343 unconstitutional.

1344 **SECTION 6.07.**

1345 Effective date.

1346 This Act shall become effective upon its approval by the Governor or upon its becoming law  
1347 without such approval. The boundaries of the proposed City of Brookhaven shall become  
1348 effective upon the effective date of this Act for the purposes of annexation of territory by  
1349 other municipalities and no portion of the territory within the proposed City of Brookhaven  
1350 shall be subject to annexation as of the effective date of this Act. If the referendum provided  
1351 for in Section 6.02 fails, then such boundaries shall cease to exist and shall be subject to  
1352 annexation by other municipalities.

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**SECTION 6.08.**

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Repealer.

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

1356 APPENDIX A  
 1357 LEGAL DESCRIPTION  
 1358 CORPORATE LIMITS  
 1359 CITY OF BROOKHAVEN, DEKALB COUNTY, GEORGIA

1360 Commence at a point on the land lot line common to Land Lot 6 of the 17th District of  
 1361 Fulton County, Georgia and Land Lot 154 of the 18th District of DeKalb County, Georgia,  
 1362 where said land lot line intersects with the southerly right-of-way line of the Northeast  
 1363 Expressway (inclusive of access roads) (a/k/a Interstate I-85); thence run north along said  
 1364 land lot line dividing Fulton and DeKalb Counties following the easterly boundaries of the  
 1365 City of Atlanta and the City of Sandy Springs, respectively, (including any deviations from  
 1366 said land lot line to the extent that boundary of the City of Atlanta crosses into DeKalb  
 1367 County, Georgia as of the date of this description) to a point on the land lot line common to  
 1368 Land Lot 17 of the 17th District of Fulton County, Georgia, and Land Lot 329 of the 18th  
 1369 District of DeKalb County where said land lot line intersects with the southerly boundary of  
 1370 the City of Dunwoody, Georgia, and the southerly right-of-way line of the Perimeter  
 1371 Highway (a/k/a I-285); thence running northwesterly and westerly along said southerly  
 1372 right-of-way line following the southerly boundary of the City of Dunwoody, Georgia, to a  
 1373 point in Land Lot 345 of the 18th District of DeKalb County, Georgia, where said southerly  
 1374 right-of-way line and the southerly border of the City of Dunwoody, Georgia intersect with  
 1375 the westerly right-of-way line of Chamblee Dunwoody Road and the boundary of the City  
 1376 of Chamblee, Georgia; thence follow said westerly right-of-way line running southerly  
 1377 following the westerly boundary of the City of Chamblee, Georgia to a point in Land Lot 308  
 1378 of the 18th District of DeKalb County, Georgia, where said westerly right-of-way line  
 1379 intersects with the northerly right-of-way line of Harts Mill Road; thence running  
 1380 southwesterly, northwesterly and southwesterly along said right-of-way line following the  
 1381 boundary of the City of Chamblee, Georgia, to the point where said right-of-way line  
 1382 intersects with the land lot line common to Land Lots 306 and 307 in the 18th District of  
 1383 DeKalb County, Georgia; thence leaving said right-of-way line, following said land lot line  
 1384 south along the westerly boundary of the City of Chamblee, Georgia, to a point where the  
 1385 land lot line common to Land Lots 277 and 278 of the 18th District of DeKalb County,  
 1386 Georgia, intersects with the northerly right-of-way line of Peachtree Road (f/k/a Peachtree  
 1387 Industrial Boulevard); thence leave said land lot line running southwesterly along said  
 1388 northerly right-of-way line of Peachtree Road for a distance of 1250 feet, more or less to a  
 1389 point following the boundary of the City of Chamblee, Georgia, as described in Article 1,  
 1390 Section 2.6 of the Charter of the City of Chamblee, Georgia (1967 Annexation); thence  
 1391 leaving said northerly right-of-way line following the boundary of the City of Chamblee,

1392 Georgia, following the boundary being described in Article 1, Section 2.8 of the Charter of  
1393 the City of Chamblee, Georgia (1978 Annexation), easterly to a point where said boundary  
1394 intersects with the land lot line common to Land Lots 277 and 278 of the 18th District of  
1395 DeKalb County; thence continuing along the boundary of the City of Chamblee, Georgia,  
1396 southerly and easterly to the point where said boundary intersects with the right-of-way of  
1397 8th Street; thence running easterly along the right-of-way of 8th Street, following the  
1398 boundary of the City of Chamblee, to the intersection of said right-of-way and the City of  
1399 Chamblee boundary with the westerly right-of-way line of Clairmont Road; thence running  
1400 due east across said right-of-way to the easterly right-of-way line of Clairmont Road; thence  
1401 running south along said easterly right-of-way line of Clairmont Road to the point where said  
1402 right-of-way line intersects the northwest corner of that certain parcel of land identified as  
1403 Tax Parcel No. 18 270 01 013; thence running east along the northerly property line of said  
1404 parcel to the point at the westernmost intersection of said parcel and Tax Parcel  
1405 No. 18 270 01 021; thence running north, east, southeast, southwest and west along the  
1406 westerly, northerly, easterly and southerly property lines of Tax Parcel No. 18 270 01 021  
1407 to a point where said property line intersects the northerly right-of-way line of West Hardee  
1408 Avenue, said point also intersecting with the westerly property line of Tax Parcel  
1409 No. 18 270 01 017 (hereinafter "DeKalb-Peachtree Airport"); thence running generally  
1410 southerly along the boundary of DeKalb-Peachtree Airport following the courses and  
1411 distances thereof to the point where said boundary intersects with the northerly right-of-way  
1412 line of Dresden Drive in Land Lot 244 of the 18th District, DeKalb County, Georgia; thence  
1413 running east along said northerly right-of-way line of Dresden Drive to a point in Land  
1414 Lot 244 of the 18th District, DeKalb County, Georgia on the westerly right-of-way line of  
1415 Buford Highway; thence running due east across said right-of-way to a point on the easterly  
1416 right-of-way line of Buford Highway; thence running southwesterly along said easterly  
1417 right-of-way line of Buford Highway to a point at the intersection of said easterly  
1418 right-of-way line and the easterly right-of-way line of Clairmont Road located in Land  
1419 Lot 236 of the 18th District of DeKalb County, Georgia; thence running southerly following  
1420 the easterly right-of-way line of Clairmont Road to a point at the intersection of said easterly  
1421 right-of-way line and the southerly right-of-way line of the Northeast Expressway (inclusive  
1422 of access roads) (a/k/a Interstate I-85) in Land Lot 196 of the 18th District of DeKalb  
1423 County, Georgia; thence following said southerly right-of-way line southwest to the POINT  
1424 OF BEGINNING.

1425 All right-of-way and boundary descriptions shall be as of the date of the passage of this  
1426 legislation.

1427 APPENDIX B  
 1428 LEGAL DESCRIPTION  
 1429 CITY COUNCIL DISTRICTS  
 1430 CITY OF BROOKHAVEN, DEKALB COUNTY, GEORGIA

1431 Plan: BHcc-2012  
 1432 Plan Type: Local  
 1433 Administrator: H080  
 1434 User: Gina  
 1435  
 1436 District 001  
 1437 DeKalb County  
 1438 VTD: 089AG - ASHFORD DUNWOOD  
 1439 VTD: 089AH - ASHFORD PARKSIDE  
 1440 VTD: 089MU - MONTGOMERY ELEM  
 1441 VTD: 089NA - NANCY CREEK ELEM  
 1442 021202:  
 1443 1010 1013 1014 1015 1027 1028 2012  
 1444 VTD: 089SE - SILVER LAKE  
 1445 021102:  
 1446 1000 1001 1002 1003 1005 1006 2000 2001 2002 2003 2004 2005  
 1447 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017  
 1448 2018 2019 3001 3002 3003 3004 3005 4000 4001 4002 4003 4004  
 1449 4005 4006 4007 4008 4009 4010 4011 4012 4013 4014 4020 4021  
  
 1450 District 002  
 1451 DeKalb County  
 1452 VTD: 089AB - ASHFORD PARK ELEMENTARY  
 1453 VTD: 089BE - BRIARWOOD  
 1454 021413:  
 1455 1014 1015 1016 1018  
 1456 VTD: 089BI - BROOKHAVEN  
 1457 021411:  
 1458 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011  
 1459 1012 1013 1014 2001 2004 2005 2006  
 1460 VTD: 089MJ - MONTCLAIR ELEM  
 1461 021414:

1462 1000 1001 1002 1003 1004 1005 1006 2000 2001 2002 2003 2004  
 1463 2005 2006 2007 2008 2009  
 1464 021603:  
 1465 2000  
 1466 VTD: 089SE - SILVER LAKE  
 1467 021102:  
 1468 1004 2020 3006 4018  
 1469 021209:  
 1470 3011 3016  
 1471 VTD: 089SF - SKYLAND  
 1472 021204:  
 1473 That portion of Block 3015 that is south and west of a line that extends  
 1474 from the intersection of the southern boundary of the DeKalb-Peachtree  
 1475 Airport at its southern point of intersection with Clairmont Road and  
 1476 following the boundary of DeKalb-Peachtree Airport until its intersection  
 1477 with Young Road  
 1478 3018 3019  
 1479 021405:  
 1480 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011  
 1481 1012 3000 3001 3002  
 1482 021412:  
 1483 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024  
 1484 021413:  
 1485 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011  
 1486 1012 1013 1017 2000 2001 2002  
  
 1487 District 003  
 1488 DeKalb County  
 1489 VTD: 089BE - BRIARWOOD  
 1490 021405:  
 1491 2012 2021 3012 3013 3014 3015 3016 3017 3018 3019 3020  
 1492 021416:  
 1493 1000 1001 1002 1003 1004 1005 1006 2000 2001 2002 2003  
 1494 VTD: 089BI - BROOKHAVEN  
 1495 021405:  
 1496 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011  
 1497 2013 2014 2015 2016 2017 2018 2019 2020 2022 2023 3003 3004

1498 3005 3006 3007 3008 3009 3010 3011  
1499 VTD: 089CO - CROSS KEYS HIGH  
1500 VTD: 089MJ - MONTCLAIR ELEM  
1501 021417:  
1502 2000 2001 2002 2003 2004 2005 2009 2017  
1503 021603:  
1504 2007  
1505 VTD: 089SE - SILVER LAKE  
1506 021102:  
1507 4015 4016 4017 4019  
1508 VTD: 089WJ - WOODWARD ELEM

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APPENDIX C

1510

CERTIFICATE AS TO MINIMUM STANDARDS

1511

FOR INCORPORATION OF A NEW MUNICIPAL CORPORATION

1512

I, Representative Mike Jacobs, Georgia State Representative from the 80th District and the author of this bill introduced at the 2011 session of the General Assembly of Georgia, which grants an original municipal charter to the City of Brookhaven, do hereby certify that this bill is in compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A. in that the area embraced within the original incorporation in this bill is in all respects in compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A.

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This certificate is executed to conform to the requirements of Code Section 36-31-5 of the O.C.G.A.

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So certified this \_\_\_\_ day of \_\_\_\_\_, 2012.

1522

\_\_\_\_\_

1523

Honorable Mike Jacobs

1524

Representative, 80th District

1525

Georgia House of Representatives