

House Bill 400 (AS PASSED HOUSE AND SENATE)

By: Representative Hawkins of the 27th

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act incorporating the Town of Clermont in Hall County, approved April 5,
2 1994 (Ga. L. 1994, p. 4782), as amended, so as to completely revise such charter; to provide
3 for incorporation, boundaries, and powers of the town; to provide for a governing authority
4 of such town and the powers, duties, authority, election, terms, vacancies, compensation,
5 expenses, qualifications, prohibitions, conflicts of interest, and suspension and removal from
6 office relative to members of such governing authority; to provide for inquiries and
7 investigations; to provide for oaths, organization, meetings, quorum, voting, rules, and
8 procedures; to provide for ordinances and codes; to provide for a town manager, mayor, and
9 mayor pro tempore, and certain duties, powers, and other matters relative thereto; to provide
10 for administrative affairs and responsibilities; to provide for boards, commissions, and
11 authorities; to provide for a town attorney, a town clerk, and other personnel and matters
12 relating thereto; to provide for rules and regulations; to provide for a municipal court and the
13 judge or judges thereof and other matters relative to those judges; to provide for the court's
14 jurisdiction, powers, practices, and procedures; to provide for the right of certiorari; to
15 provide for elections; to provide for taxation, licenses, and fees; to provide for franchises,
16 service charges, and assessments; to provide for bonded and other indebtedness; to provide
17 for auditing, accounting, budgeting, and appropriations; to provide for town contracts and
18 purchasing; to provide for the conveyance of property and interests therein; to provide for
19 bonds for officials; to provide for prior ordinances and rules, pending matters, and existing
20 personnel; to provide for penalties; to provide for definitions and construction; to provide for
21 other matters relative to the foregoing; to provide for effective dates; to repeal conflicting
22 laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 ARTICLE I
25 INCORPORATION AND POWERS

26 SECTION 1.10.

27 Incorporation.

28 The Town of Clermont in Hall County is reincorporated by the enactment of this charter and
29 is constituted and declared a body politic and corporate under the name of the "Town of
30 Clermont." References in this charter to "the town" refer to the Town of Clermont. The
31 town shall have perpetual existence. The legal situs of the town shall be Hall County.

32 SECTION 1.11.

33 Corporate boundaries.

34 (a) The boundaries of the town shall be those existing on the effective date of the adoption
35 of this charter with such alterations as may be made from time to time by local law or in the
36 manner provided by general state law. The boundaries of the town at all times shall be
37 shown on a map, a written description, or any combination thereof, to be retained
38 permanently in the office of the town clerk of the town and to be designated, as the case may
39 be: "Official Map or Description of the Corporate Limits of the Town of Clermont,
40 Georgia." Photographic, typed, or other copies of such map or description certified by the
41 clerk shall be admitted as evidence in all courts and shall have the same force and effect as
42 the original map or description.

43 (b) The town council may provide for the redrawing of any such map by ordinance to reflect
44 lawful changes in the corporate boundaries. A redrawn map shall supersede for all purposes
45 the earlier map or maps which it is designated to replace but such earlier maps shall be
46 retained in the office of the clerk.

47 SECTION 1.12.

48 Powers and construction.

49 (a) The town shall have all powers possible for a town to have under the present or future
50 Constitution and laws of this state as fully and completely as though they were specifically
51 enumerated in this charter.

52 (b) The powers of the town shall be construed liberally in favor of the town. The specific
53 mention or failure to mention particular powers shall not be construed as limiting in any way
54 the powers of the town.

55 **SECTION 1.13.**

56 Examples of powers.

57 The powers of the town shall include but not be limited to the following powers:

58 (1) Air and Water Pollution. To regulate the emission of smoke or other exhaust which
59 pollutes the air and to prevent the pollution of natural streams which flow within the
60 corporate limits of the town;

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

66 (3) Appropriations and Expenditures. To make appropriations for the support of the
67 government of the town; to authorize the expenditure of money for any purposes authorized
68 by this charter and for any purpose for which a municipality is authorized by the laws of
69 the State of Georgia; and to provide for the payment of expenses of the town;

70 (4) Building Regulation. To regulate and to license the erection and construction of
71 buildings and all other structures; to adopt building, housing, plumbing, fire safety,
72 electrical, gas, and heating and air conditioning codes and other similar technical codes;
73 and to regulate all housing and building trades;

74 (5) Business Regulation and Taxation. To levy and to provide for the collection of
75 regulatory fees and taxes on privileges, occupations, trades, and professions as authorized
76 by Title 48 of the Official Code of Georgia Annotated or other such applicable laws as are
77 or may thereafter be enacted; to permit and regulate the same; to provide for the manner
78 and method of payment of such regulatory fees and taxes; and to revoke such permits after
79 due process for failure to pay any town taxes or fees;

80 (6) Condemnation. To condemn property, inside or outside the corporate limits of the
81 town, for present or future use and for any corporate purpose deemed necessary by the
82 governing authority, utilizing procedures enumerated in Title 22 of the Official Code of
83 Georgia Annotated, or such other applicable laws as are or may hereafter be enacted;

84 (7) Contracts. To enter into contracts and agreements with other governmental entities and
85 with private persons, firms, and corporations;

- 86 (8) Emergencies. To establish procedures for determining and proclaiming that an
87 emergency situation exists within or without the town, 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 town;
- 90 (9) Environmental Protection. To protect and preserve the natural resources, environment,
91 and vital areas of the town, the region, and the state through the preservation and
92 improvement of air quality, the restoration and maintenance of water resources, the control
93 of erosion and sedimentation, the management of stormwater and establishment of a
94 stormwater utility, the management of solid and hazardous waste, the management of
95 commercial waste, and other necessary actions for the protection of the environment;
- 96 (10) Fire Regulations. To fix and establish fire limits and from time to time to extend,
97 enlarge or restrict the same; to prescribe fire safety regulations not inconsistent with
98 general law, relating to both fire prevention and detection and to firefighting; and to
99 prescribe penalties and punishment for violations thereof;
- 100 (11) Garbage Fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection
101 and disposal, and other sanitary service charge, tax, or fee for such services as may be
102 necessary in the operation of the town from all individuals, firms, and corporations residing
103 in or doing business therein and benefiting from such services; to enforce the payment of
104 such charges, taxes, or fees; and to provide for the manner and method of collecting such
105 service charges to provide that said fees may be based upon the availability of the service
106 as opposed to user fees;
- 107 (12) General Health, Safety, and Welfare. To define, regulate, and prohibit any act,
108 practice, conduct, or use of property which is detrimental to health, sanitation, cleanliness,
109 welfare, and safety of the inhabitants of the town, and to provide for the enforcement of
110 such standards;
- 111 (13) Gifts. To accept or refuse gifts, donations, bequests, or grants from a source for any
112 purpose related to powers and duties of the town and the general welfare of its citizens, on
113 such terms and conditions as the donor or grantor may impose;
- 114 (14) Health and Sanitation. To prescribe standards of health and sanitation and to provide
115 for the enforcement of such standards;
- 116 (15) Jail Sentences. To provide that persons given jail sentences in the municipal court
117 may work out such sentences in any public works or on the streets, roads, drains, and other
118 public property in the town, to provide for commitment of such persons to any jail, to
119 provide for the use of pretrial diversion and any alternative sentencing allowed by law, or
120 to provide for commitment of such persons to any county work camp or county jail by
121 agreement with the appropriate county officials;

- 122 (16) Motor vehicles. To regulate the operation of motor vehicles and exercise control over
123 all traffic, including parking upon or across the streets, roads, alleys, and walkways of the
124 town;
- 125 (17) Municipal Agencies and Delegation of Power. To create, alter, or abolish
126 departments, boards, offices, commissions, and agencies of the town, including but not
127 limited to any Housing Authority, and to confer upon such agencies the necessary and
128 appropriate authority for carrying out all the powers conferred upon or delegated to the
129 same;
- 130 (18) Municipal Debts. To appropriate and borrow money for the payment of debts to the
131 town and to issue bonds for the purpose of raising revenue to carry out any project,
132 program, or venture authorized by this charter or the laws of the State of Georgia, or the
133 laws of the United States of America;
- 134 (19) Municipal Property Ownership. To acquire, dispose of, lease, and hold in trust or
135 otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or
136 outside the municipal limits of the town;
- 137 (20) Municipal Property Protection. To provide for the preservation and protection of
138 property and equipment of the town and the administration and use of same by the public;
139 and to prescribe penalties and punishment for violations thereof;
- 140 (21) Municipal Utilities. To acquire, lease, construct, operate, maintain, sell, and dispose
141 of public utilities, including but not limited to a system of waterworks, sewers and drains,
142 sewage disposal, stormwater management, gas works, electric light plants, cable television
143 and other telecommunications, transportation facilities, public airports, and any other
144 public utility; and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and
145 penalties, and to provide for the withdrawal of service for refusal or failure to pay the same;
- 146 (22) Nuisance. To define a nuisance and provide for its abatement whether on public or
147 private property;
- 148 (23) Penalties. To provide penalties for violation of any ordinances adopted pursuant to
149 the authority of this charter and the laws of the State of Georgia;
- 150 (24) Planning and Zoning. To provide comprehensive town planning for development by
151 zoning; and to provide subdivision regulation and the like as the town council deems
152 necessary and reasonable to ensure a safe, healthy, and aesthetically pleasing community;
- 153 (25) Police and Fire Protection. To exercise the power of arrest through duly appointed
154 police officers, and to establish, operate, or contract for a police and a firefighting agency;
- 155 (26) Public Hazards: Removal. To provide for the destruction and removal of any
156 building or other structure which is or may become dangerous or detrimental to the public;
- 157 (27) Public Improvements. To provide for the acquisition, construction, building,
158 operation, and maintenance of public ways, parks and playgrounds, recreational facilities,

159 cemeteries, markets and market houses, public buildings, libraries, public housing, airports,
160 hospitals, terminals, docks, parking facilities, or charitable, cultural, educational,
161 recreational, conservation, sport, curative, corrective, detentional, penal, and medical
162 institutions, agencies, and facilities; and to provide any other public improvements, inside
163 or outside the corporate limits of the town; to regulate the use of public improvements; and
164 for such purposes, property may be acquired by condemnation under Title 22 of the
165 Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter
166 be enacted;

167 (28) Public Peace. To provide for the prevention and punishment of loitering, disorderly
168 conduct, drunkenness, riots, and public disturbances;

169 (29) Public Transportation. To organize and operate such public transportation systems
170 as are deemed beneficial;

171 (30) Public Utilities and Services. To grant franchises or make contracts for or impose
172 taxes on public utilities and public service companies; and to prescribe the rates, fares,
173 regulations and standards, and conditions of service applicable to the service to be provided
174 by the franchise grantee or contractor, insofar as not in conflict with valid regulations of
175 the Public Service Commission, or other applicable state laws of Georgia;

176 (31) Regulation of Roadside Areas. To prohibit or regulate and control the erection,
177 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any and
178 all other structures or obstructions upon or adjacent to the rights-of-way of streets and
179 roads or within view thereof, within or abutting the corporate limits of the town; and to
180 prescribe penalties and punishment for violation of such ordinances;

181 (32) Retirement. To provide and maintain a retirement plan and other employee benefit
182 plans and programs for elected officials, officers, and employees of the town;

183 (33) Roadways. To lay out, open, extend, widen, establish or change the grade of,
184 abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise
185 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and
186 walkways within the corporate limits of the town; and to grant franchises and rights-of-way
187 throughout the streets and roads, and over the bridges and viaducts for the use of public
188 utilities; and to require real estate owners to repair and maintain in a safe condition the
189 sidewalks adjoining their lots or lands, and to impose penalties for failure to do so;

190 (34) Sewer Fees. To levy a fee, charge, or sewer tax as necessary to ensure the acquiring,
191 constructing, equipping, operating, maintaining, and extending of a sewage disposal plant
192 and sewerage system, and to levy on those to whom sewers and sewerage systems are made
193 available a sewer service fee, charge, or sewer tax for the availability or use of the sewers;
194 to provide for the manner and method of collecting such service charges and for enforcing

195 payment of the same; and to charge, impose, and collect a sewer connect fee or fees to
196 those connected with the system;

197 (35) Solid Waste Disposal. To provide for the collection and disposal of garbage, rubbish,
198 and refuse, and to regulate the collection and disposal of garbage, rubbish, and refuse by
199 others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper,
200 and other recyclable materials, and to provide for the sale of such items;

201 (36) Special Areas of Public Regulation. To regulate or prohibit junk dealers; to regulate
202 the manufacture and sale of intoxicating liquors; to regulate the transportation, storage, and
203 use of combustible, explosive, and inflammable materials; to regulate the use of lighting
204 and heating equipment; to regulate the treatment of commercial waste or septage, or both,
205 and any other business or situation which may be dangerous to persons or property; to
206 regulate and control the conduct of peddlers and itinerant traders, theatrical performances,
207 exhibitions, and shows of any kind, by taxation or otherwise; to license and tax
208 professional fortune telling, palmistry, and massage parlors; and to restrict adult bookstores
209 and other adult entertainment to certain areas;

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

212 (38) Taxes: Ad Valorem. To levy and provide for the assessment, valuation, revaluation,
213 and collection of taxes on all property subject to taxation;

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

216 (40) Taxicabs. To regulate and license vehicles operated for hire in the town; to limit the
217 number of such vehicles; to require the operators thereof to be licensed; to require public
218 liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to
219 regulate the parking of such vehicles;

220 (41) Urban Redevelopment. To organize and operate an urban redevelopment program;

221 (42) Special Referendums. To hold special referendums to place policy issues or to
222 conduct "straw polls" before the electors of the town; to hold such special referendums at
223 the times allowed for special elections under Chapter 2 of Title 21 of the O.C.G.A., the
224 "Georgia Election Code" as now or hereafter amended; and

225 (43) Other Powers. To exercise and enjoy all other powers, functions, rights, privileges,
226 and immunities necessary or desirable to promote or protect the safety, health, peace,
227 security, good order, comfort, convenience, or general welfare of the town and its
228 inhabitants; and to exercise all implied powers necessary or desirable to carry into
229 execution all powers granted in this charter as fully and completely as if such powers were
230 fully stated herein; and to exercise all powers now or in the future authorized to be
231 exercised by other municipal governments under other laws of the State of Georgia; and

232 no listing of particular powers in this charter shall be held to be exclusive of others, nor
 233 restrictive of general words and phrases granting powers, but shall be in addition to such
 234 powers unless expressly prohibited to municipalities under the Constitution or applicable
 235 laws of the State of Georgia.

236 **SECTION 1.14.**

237 Exercise of powers.

238 All powers, functions, rights, privileges, and immunities of the town, its officers, agencies,
 239 or employees shall be carried into execution as provided by this charter. If this charter makes
 240 no provision, such shall be carried into execution as provided by ordinance or as provided
 241 by pertinent laws of the State of Georgia.

242 **ARTICLE II**

243 **GOVERNMENT STRUCTURE, ELECTIONS, AND REMOVAL**

244 **SECTION 2.10.**

245 Town council creation; composition; number.

246 (a) On or after January 1, 2018, the legislative authority of the government of the town
 247 except as otherwise specifically provided in this charter, shall be vested in a town council to
 248 be composed of a mayor and five councilmembers. The mayor and five councilmembers
 249 shall be the successors to the mayor and five councilmembers provided for in previous law.
 250 (b) The mayor and councilmembers shall serve for terms of four years and until their
 251 respective successors are elected and qualified. No person shall be eligible to serve as the
 252 mayor and councilmember unless he or she shall have been a resident of the town for 12
 253 months immediately preceding the election of such office.

254 **SECTION 2.11.**

255 Inquiries and investigations.

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

261 **SECTION 2.12.**

262 General power and authority of the town council.

263 Except as otherwise provided by this charter, the town council shall be vested with all the
264 powers of government of the town as provided in Article I of this charter.

265 **SECTION 2.13.**

266 Organization meeting.

267 The town council shall meet for organization on the first Tuesday in January of each year or
268 as soon thereafter as practical. The meeting shall be called to order by the mayor and the
269 oath of office shall be administered to the newly elected members as follows:

270 "I do solemnly swear (or affirm) that I will faithfully perform the duties of a
271 councilmember of the town and that I will support and defend the charter thereof as well
272 as the Constitution and laws of the State of Georgia and of the United States of America."

273 **SECTION 2.14.**

274 Regular and special meetings.

275 (a) The town council shall hold regular meetings at such times and places as prescribed by
276 resolution.

277 (b) Special meetings of the town council may be held on call of the mayor or two other
278 members of the town council. Notice of such special meetings shall be served on all other
279 members personally, or by telephone personally, at least 24 hours in advance of the meeting.
280 Such notice to councilmembers shall not be required if all town councilmembers are present
281 when the special meeting is called. Such notice of any special meeting may be waived by
282 a councilmember in writing before or after such a meeting, and attendance at the meeting
283 shall also constitute a waiver of notice on any business transacted in such councilmember's
284 presence. Except where waiver by all members is effected by their presence or in writing,
285 only the business stated in the call may be transacted at the special meeting.

286 (c) All meetings of the town council shall be public to the extent required by general state
287 law and notice to the public of all meetings shall be made as required by general state law.

288

SECTION 2.15.

289

Rules of procedure.

290 (a) The town council shall adopt its rules of procedure and order of business consistent with
 291 the provisions of this charter and shall provide for keeping minutes of its proceedings
 292 according to general state law, and which shall be a public record.

293 (b) All committees and committee chairmen and officers of the town council shall be
 294 appointed by the town council. The town council, by a majority vote, shall have the power
 295 to remove members of any committee and the power to appoint new members to any
 296 committee, at any time, with the town council's discretion.

297

SECTION 2.16.

298

Quorum; voting.

299 (a) Except as otherwise provided in subsection (b) of this section, three councilmembers, or
 300 two councilmembers and the mayor, shall constitute a quorum and shall be authorized to
 301 transact business of the town council. Voting on the adoption of ordinances shall be taken
 302 by voice vote and the ayes and nays shall be recorded in the minutes, but any member of the
 303 town council shall have the right to request a roll-call vote. Except as otherwise provided
 304 in this charter, the affirmative vote of three councilmembers or two councilmembers and the
 305 mayor shall be required for the adoption of any ordinance, resolution, or motion.

306 (b) In the event vacancies in office result in less than a quorum of councilmembers holding
 307 office, then the remaining councilmembers in office shall constitute a quorum and shall be
 308 authorized to transact business for the town council. A vote of a majority of the remaining
 309 councilmembers shall be required for the adoption of any ordinance, resolution, or motion.

310

SECTION 2.17.

311

Ordinance form; procedure; notice and reading.

312 (a) Every proposed ordinance shall be introduced in writing and must be finalized at the time
 313 of passage at the second meeting for final adoption. The enacting clause shall be: "The
 314 Council of the Town of Clermont hereby ordains...." and every ordinance shall so begin.

315 (b) An ordinance may be introduced by any councilmember. Before an ordinance can be
 316 voted on, it must be introduced at one regular or special meeting and passed at a second
 317 regular or special meeting.

318 (c) Upon passage, all ordinances shall be signed by the mayor, or mayor pro tempore if
 319 presiding, and the town clerk.

320 (d) Failure to comply with the technical requirements of this section shall not invalidate an
 321 ordinance if the intention of the governing authority that the ordinance be effective is
 322 evident.

323 **SECTION 2.18.**

324 Exercise of powers.

325 Notwithstanding any other provisions of this charter, acts of the town council which have the
 326 force and effect of law may be done by motion or resolution of the town council, except that
 327 any act of the town council to amend the charter or the code of ordinances or any other act
 328 required by general state law to be done by ordinance shall be done by ordinance.

329 **SECTION 2.19.**

330 Emergencies.

331 To meet a public emergency affecting life, health, property, or public peace, the town council
 332 may convene on call of the mayor or two town councilmembers and promptly adopt an
 333 emergency ordinance, but such ordinance may not levy taxes, grant, renew, or extend a
 334 franchise, regulate the rate charged by any public utility for its services, or authorize the
 335 borrowing of money except for loans to be repaid within 30 days. Any emergency ordinance
 336 shall be introduced in the form prescribed for ordinances generally, except that it contain,
 337 after the enacting clause, a declaration stating that an emergency exists and describing it in
 338 clear and specific terms. It shall become effective upon adoption or at such later time as it
 339 may specify. Every emergency ordinance shall automatically stand repealed 30 days
 340 following the date upon which it is adopted, but this shall not prevent reenactment of the
 341 ordinance in the manner specified in this section if the emergency still exists. An emergency
 342 ordinance may also be repealed by adoption of a repealing ordinance in the same manner
 343 specified in this section for adoption of emergency ordinances.

344 **SECTION 2.20.**

345 Codes of technical regulations.

346 (a) The town council may adopt any standard code of technical regulations by reference
 347 thereto in an adopting ordinance. The procedure and requirements governing such adopting
 348 ordinance shall be as prescribed for ordinances generally.

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

351

SECTION 2.21.

352

Signing; authenticating; recording; codification; printing.

353 (a) The clerk shall authenticate by his or her signature and record in full in a properly
354 indexed book or record kept for the purpose all ordinances adopted by the council.

355 (b) The town council shall provide for the preparation of a general codification or
356 compilation of all of the ordinances of the town having the force and effect of law. The
357 general codification or compilation shall be adopted by the town council and shall be
358 published as soon as is practicable, together with all amendments thereto and such codes of
359 technical regulations and other rules and regulations as the town council may specify. This
360 compilation shall be known and cited officially as "The Code of the Town of Clermont,
361 Georgia." Copies of the code or compilation shall be furnished to all offices, departments,
362 and agencies of the town and made available for purchase by the public at a reasonable price
363 as fixed by the town council.

364 (c) The town council shall cause each ordinance and each amendment to this charter to be
365 published as soon as is practicable following its adoption, and the published ordinances and
366 charter amendments shall be made available for purchase by the public at reasonable prices
367 to be fixed by the town council. Following publication of the first code or compilation under
368 this charter and at all times thereafter, the ordinances and charter amendments shall be
369 printed in substantially the same style as the code or compilation currently in effect and shall
370 be suitable in form for incorporation therein. The town council shall make such further
371 arrangements as deemed desirable with respect to reproduction and distribution of any
372 current changes in or additions to codes of technical regulations and other rules and
373 regulations included in the code.

374

SECTION 2.22.

375

Submission of ordinances to the mayor; veto power.

376 (a) Every ordinance adopted by the town council shall be presented by the town clerk to the
377 mayor within three days after its adoption.

378 (b) The mayor shall within ten days of receipt of an ordinance return it to the town clerk
379 with or without his or her approval, or with his or her disapproval. If the ordinance has been
380 approved by the mayor, it shall become law upon its return to the town clerk; if the ordinance
381 is neither approved nor disapproved, it shall become law on the fifteenth day after its
382 adoption; if the ordinance is disapproved, the mayor shall submit to the town council through
383 the town clerk a written statement of the reasons for the veto. The town clerk shall record
384 upon the ordinance the date of its delivery to and receipt from the mayor.

385 (c) Ordinances vetoed by the mayor shall be presented by the town clerk to the town council
 386 at its next meeting and should the town council then or at its next general meeting adopt the
 387 ordinance by the affirmative vote of four members of the council, it shall become law.

388 (d) The mayor may disapprove or reduce any item or items of appropriation in any
 389 ordinance. The approved part or parts of any ordinance making appropriations shall become
 390 law, and the part or parts disapproved shall not become law unless subsequently passed by
 391 the town council over the mayor's veto as provided in this section. The reduced part or parts
 392 shall be presented to the town council as though disapproved and shall not become law
 393 unless overridden by the council as provided in subsection (c) of this section.

394 **SECTION 2.23.**

395 Chief executive officer; delegation of powers.

396 The mayor shall be the chief executive of the town. The mayor shall possess all of the
 397 executive powers granted to the town under the Constitution and laws of the State of
 398 Georgia, and all the executive powers contained in this charter, except as otherwise
 399 specifically provided in this charter. The mayor shall have the authority to delegate any one
 400 or more executive powers to a person or persons employed by the town and qualified in
 401 management and administration. As chief executive officer, the mayor shall be the
 402 supervisor of any town manager, if one is selected by the town council, but the town
 403 manager, if selected, shall administratively handle the operations of the town on a day-to-day
 404 basis.

405 **SECTION 2.24.**

406 Powers and duties of mayor.

407 As the chief executive of the town, the mayor shall:

- 408 (1) Supervise the town manager to see that all laws and ordinances of the town are
 409 faithfully executed;
- 410 (2) Review and approve the recommendation of appointment or removal by the town
 411 manager of all officers, department heads, and employees of the town except as otherwise
 412 provided in this charter; any appointment or removal by the mayor shall be subject to
 413 confirmation by the town council;
- 414 (3) Exercise supervision over all executive and administrative work of the town by the
 415 town manager and provide for the coordination of administrative activities, including but
 416 not limited to appointment of councilmembers as administrative supervisors over town
 417 departments and who will supervise the town manager's management of said

- 418 departments; the mayor shall coordinate the administrative tasks performed by the town
 419 manager and those performed by a councilmember acting as an administrative supervisor
 420 over a town department;
- 421 (4) Exercise supervision over the town manager's preparation and submission to the
 422 council a recommended annual operating budget and recommended capital budget;
- 423 (5) Ensure that the town manager shall submit to the council at least once a year a
 424 statement covering the financial conditions of the town and from time to time such other
 425 information as the town council may request;
- 426 (6) Preside over all meetings of the town council;
- 427 (7) Call special meetings of the town council as provided for in Section 2.14 of this
 428 charter;
- 429 (8) Participate in the discussion of all matters brought before the town council and vote
 430 on such matters only in the case of a tie vote or where such vote is needed to provide the
 431 affirmative vote needed for approval of a matter;
- 432 (9) Recommend to the town council such measures relative to the affairs of the town,
 433 improvement of the government, and promotion of the welfare of its inhabitants as he or
 434 she may deem expedient;
- 435 (10) Approve or disapprove ordinances as provided in Section 2.22 of this charter;
- 436 (11) Require any department or agency of the town to submit written reports whenever
 437 he or she deems it expedient;
- 438 (12) Sign as a matter of course all written contracts, ordinances, and other instruments
 439 executed by the town which by law are required to be in writing;
- 440 (13) Perform the duties of town manager should that office not be filled or be vacant for
 441 any reason; and
- 442 (14) Perform such other duties as may be required by general state law, this charter, or
 443 ordinance.

444 **SECTION 2.25.**

445 Mayor pro tempore.

446 The town council at the first annual meeting, after the newly elected councilmembers have
 447 taken office following each regular election, shall elect from its membership a mayor pro
 448 tempore for a term of one year. In the event that no decision is reached at such first regular
 449 meeting, the town council shall elect from its membership, within ten days following such
 450 meeting, the mayor pro tempore; otherwise the councilmember who received the highest
 451 number of votes when he or she was last elected shall become the mayor pro tempore. The
 452 mayor pro tempore shall perform the duties of the mayor during his or her absence or

453 inability to act and shall fill out any unexpired term in the office of mayor, in which case a
 454 new mayor pro tempore shall be elected by majority vote of the town council.

455 **SECTION 2.26.**

456 Town manager and acting town manager.

457 (a) Appointment of town manager; compensation. The town council may select an officer
 458 of not less than 25 years of age whose title shall be town manager and who shall be the head
 459 of the administrative branch of the town government on a day-to-day basis. The town
 460 manager shall be chosen by the town council on the basis of qualifications for the position
 461 as such with special reference to actual experience in and knowledge of the duties of the
 462 office as hereinafter prescribed. The town manager shall have received a bachelor's degree
 463 as a minimum educational requirement or, in lieu thereof, a minimum of five years'
 464 experience in a town in a supervisory capacity. The town manager shall serve at the pleasure
 465 of the town council. The town manager shall receive such salary as the town council may
 466 fix. Should the town council not fill the office of town manager for any reason, including
 467 but not limited to choosing not to have a town manager, or should the office be vacant for
 468 any reason, then the mayor shall perform the duties of town manager.

469 (b) Acting town manager. By letter filed with the town clerk, the mayor shall designate,
 470 subject to approval of the town council, a qualified administrative officer (which can include
 471 but not be limited to the mayor) to execute the powers and perform the duties of the town
 472 manager during the manager's temporary absence or disability.

473 **SECTION 2.27.**

474 Powers and duties of town manager.

475 (a) The town manager shall be responsible to the mayor and town council for the proper
 476 administration of all affairs of the town. As chief administrator, the town manager shall have
 477 the power to recommend appointment and removal of all officers department heads, and
 478 employees in the administrative service of the town except the town clerk, town police chief,
 479 town engineer, town attorney, and the town judge; and these officers, department heads, and
 480 employees shall be administratively responsible to the town manager, except the town clerk,
 481 town police chief, town engineer, town attorney, and the town judge who shall be appointed
 482 or removed by the mayor and subject to the confirmation by the town council. The mayor
 483 and town council as determined in their discretion can modify any personnel decision made
 484 by the town manager. It shall be the duty of the town manager to supervise the
 485 administration of the affairs of the town; to see that the ordinances, resolutions, and

486 regulations of the town council and the laws of the state are faithfully executed and enforced;
 487 to make such recommendations to the town council concerning the affairs of the town as he
 488 or she shall deem expedient; to keep the town council advised of the financial condition and
 489 future financial needs of the town; to attend all meetings of the town council; to prepare and
 490 to submit to the town council such reports as may be deemed expedient or as may be required
 491 by the town council. The town manager shall perform such other functions as assigned by
 492 the town council.

493 (b) The town manager shall be designated and given authority to delegate duties as the
 494 purchasing agent, the personnel officer, and the finance officer of the Town of Clermont.
 495 The town manager shall have responsibility for preparing and implementing the budget
 496 following budgetary review and adoption of the council in regular meeting. All department
 497 heads employed by the town manager shall be administratively accountable to the town
 498 manager. All department heads or other agents employed by the legislative body shall be
 499 administratively communicative with the town manager.

500 **SECTION 2.28.**

501 Compensation and expenses.

502 The mayor shall receive compensation of \$150.00 per month and each councilmember shall
 503 receive compensation of \$125.00 per month, and reimbursement for expenses actually and
 504 necessarily incurred by them in carrying out their official duties. The council shall be
 505 authorized to change their compensation and expenses for their services as provided by
 506 ordinance and in accordance with Chapter 35 of Title 36 of the O.C.G.A.

507 **SECTION 2.29.**

508 Prohibitions.

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

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

515 (2) Engage in or accept private employment or render services for private interests when
 516 such employment or service is incompatible with the proper discharge of his or her
 517 official duties or would tend to impair the independence of his or her judgment or action
 518 in the performance of his or her official duties;

- 519 (3) Disclose confidential information concerning the property, government, or affairs of
520 the governmental body by which he or she is engaged without proper legal authorization
521 or use such information to advance the financial or other private interest of himself or
522 herself or others;
- 523 (4) Accept any valuable gift, whether in the form of service, loan, object, or promise,
524 from any person, firm, or corporation which to his or her knowledge is interested, directly
525 or indirectly, in any manner whatsoever in business dealings with the governmental body
526 by which he or she is engaged; provided, however, that an elected official who is a
527 candidate for public office may accept campaign contributions and services in connection
528 with any such campaign;
- 529 (5) Represent other private interests in any action or proceeding against the town or any
530 portion of its government; or
- 531 (6) Vote or otherwise participate in the negotiation or in the making of any contract with
532 any business or entity in which he or she has a financial interest.
- 533 (b) Any elected official, appointed officer, or employee who has any private financial
534 interest, directly or indirectly, in any contract or matter pending before or within any
535 department of the town shall disclose such private interest to the town council. The mayor
536 or any councilmember who has a private interest in any matter pending before the town
537 council shall disclose such private interest and such disclosure shall be entered on the records
538 of the town council, and he or she shall disqualify himself or herself from participating in any
539 decision or vote relating thereto. Any elected official, appointed officer, or employee of any
540 agency or political entity in which this charter applies who shall have any private financial
541 interest, directly or indirectly, in any contract or matter pending before or within such entity
542 shall disclose such private interest to the governing body of such agency or entity.
- 543 (c) No elected official, appointed officer, or employee of the town or any agency or entity
544 to which this charter applies shall use property owned by such governmental entity for
545 personal benefit, convenience, or profit, except in accordance with policies promulgated by
546 the town council or the governing body of such agency or entity.
- 547 (d) Any violation of this section which occurs with the knowledge, express or implied, of
548 a party to a contract or sale shall render said contract or sale voidable at the option of the
549 town council.
- 550 (e) Except as authorized by law, no member of the council shall hold any other elective town
551 office or other town employment during the term for which he or she was elected. The
552 provisions of this subsection shall not apply to any person holding employment on the
553 effective date of this charter.

554 **SECTION 2.30.**

555 Removal of officers.

556 (a) The mayor, a councilmember, or other appointed officers provided for in this charter
557 shall be removed from office for any one or more of the following causes:

558 (1) Incompetence, misfeasance, or malfeasance in office;

559 (2) Conviction of a crime that is a felony or a crime involving moral turpitude;

560 (3) Failure at any time to possess any qualifications of office as provided by this charter
561 or by law;

562 (4) Knowingly violating Section 2.29 or any other express prohibition of this charter;

563 (5) Abandonment of office or neglect to perform the duties thereof; or

564 (6) Failure for any cause to perform the duties of office as required by this charter or by
565 state law.

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

568 (1) By the vote of three councilmembers after an investigative hearing. In the event an
569 elected officer is sought to be removed by the action of the town council, such officer
570 shall be entitled to a written notice specifying the ground or grounds for removal and to
571 a public hearing which shall be held not less than ten days after the service of such
572 written notice. Any elected officer sought to be removed from office as provided in this
573 section shall have the right of appeal from the decision of the town council to the
574 Superior Court of Hall County. Such appeal shall be governed by the same rules as
575 govern appeals to the superior court from the probate court; or

576 (2) By an order of the Superior Court of Hall County following a hearing on a complaint
577 seeking such removal brought by a resident of the Town of Clermont.

578 **SECTION 2.31.**

579 Exercise of powers.

580 All powers, functions, rights, privileges, and immunities of the town, its officers, agencies,
581 or employees shall be carried into execution as provided by the Constitution of Georgia, by
582 general law, or by this charter. If general law and this charter make no provision, such shall
583 be carried into execution as provided by ordinance.

584 ARTICLE III
 585 ELECTIONS
 586 **SECTION 3.10.**

587 Terms and qualifications.

588 The mayor and councilmembers shall serve for terms of four years and until their respective
 589 successors are elected and qualified. No person shall be eligible to serve as mayor or
 590 councilmember unless he or she has been a resident of the town for 12 months immediately
 591 preceding the election of mayor or councilmembers. Each person elected as mayor or
 592 councilmember shall continue to reside within the town and, for councilmember Wards 1
 593 through 4, in the ward which that member represents, during said period of service, and shall
 594 be registered and qualified to vote in municipal elections of the town. No person's name
 595 shall be listed as a candidate on the ballot for election for either mayor or councilmember
 596 unless such person files a written notice with the clerk of the town that he or she desires his
 597 or her name to be placed on the ballot as a candidate either for mayor or councilmember. No
 598 person shall be eligible for the office of mayor or councilmember unless he or she files such
 599 notice within the time provided for in Chapter 2 of Title 21 of the O.C.G.A., the "Georgia
 600 Election Code."

601 **SECTION 3.11.**

602 Elections.

603 (a) At any election, all persons who are qualified under the Constitution and laws of Georgia
 604 to vote for members of the General Assembly of Georgia and who are bona fide residents of
 605 said town shall be eligible to qualify as voters in the election.

606 (b) All primaries and elections shall be held and conducted in accordance with Chapter 2 of
 607 Title 21 of the O.C.G.A., the "Georgia Election Code." Except as otherwise provided by this
 608 charter, the town council shall, by ordinance, or resolution as appropriate, prescribe such
 609 rules and regulations it deems appropriate to fulfill any options and duties under the "Georgia
 610 Election Code."

611 (c) Political parties shall not conduct primaries for town offices and all names of candidates
 612 for town offices shall be listed without party labels.

613 (d) The candidate receiving a plurality of the votes cast for any town office shall be elected.

SECTION 3.12.

614

615

Councilmembers; election wards.

616 (a) The mayor and councilmembers who are in office on the effective date of this charter
617 shall serve until the expiration of the terms of office to which they were elected and until
618 their successors are duly elected and qualified.

619 (b)(1) For purposes of electing members of the town council of the Town of Clermont,
620 the town is divided into four councilmember wards which shall be and correspond to
621 those four numbered wards described in and attached to and made a part of this Act and
622 further identified as Plan: Clermont-2015 Plan Type: Local Administrator: Clermont
623 User: BAK. A fifth councilmember ward shall comprise the entire territory of the town.
624 Each councilmember and mayor shall be elected at large by the voters of the entire
625 municipality. Persons qualifying for election as councilmember at the 2015 municipal
626 elections shall reside in and qualify for Wards 1, 2, and 5, as applicable. Persons
627 qualifying for election as councilmember at the 2017 municipal election shall reside in
628 and qualify for Wards 3 and 4, as applicable. If a councilmember moves his or her
629 residence from the ward from which he or she was elected during his or her term of
630 office, a vacancy shall be created and shall be filled as provided in this charter. The
631 mayor may reside in any part of the town and will be elected at the 2017 municipal
632 election. The mayor and each councilmember shall serve terms of four years and until
633 their successors are duly elected and qualified.

634 (2) When used in such attachment, the term 'VTD' (voting tabulation district) shall mean
635 and describe the same geographical boundaries as provided in the report of the Bureau
636 of the Census for the United States decennial census of 2010 for the State of Georgia.

637 (3) The separate numeric designations in a district description which are underneath a
638 VTD heading shall mean and describe individual Blocks within a VTD as provided in the
639 report of the Bureau of the Census for the United States decennial census of 2010 for the
640 State of Georgia. Any part of the Town of Clermont which is not included in any such
641 district described in that attachment shall be included within that district contiguous to
642 such part which contains the least population according to the United States decennial
643 census of 2010 for the State of Georgia.

644 (4) Any part of the Town of Clermont which is described in that attachment as being in
645 a particular councilmember ward shall nevertheless not be included within such ward if
646 such part is not contiguous to such ward. Such noncontiguous part shall instead be
647 included within that ward contiguous to such part which contains the least population
648 according to the United States decennial census of 2010 for the State of Georgia.

649 (5) Any part of the Town of Clermont which is described in paragraph (1) of this
 650 subsection as being included in a particular councilmember ward shall nevertheless not
 651 be included within such ward if such part is not contiguous to such ward. Such
 652 noncontiguous part shall instead be included within that ward contiguous to such part
 653 which contains the least population according to the United States decennial census of
 654 2010 for the State of Georgia.

655 **SECTION 3.13.**

656 Elections.

657 Municipal elections shall be held on the Tuesday next following the first Monday in
 658 November, 2015, and on such day biennially thereafter. At the election held in November,
 659 2015, there shall be elected councilmembers representing councilmember Wards 1, 2, and
 660 5, as applicable, to serve terms of four years. At the election, held in 2017, there shall be
 661 elected a mayor, who may reside in any part of the town, and councilmembers from
 662 councilmember Wards 3 and 4 to serve terms of four years. Thereafter, the mayor and
 663 councilmembers shall serve terms of four years and until their successors are duly elected
 664 and qualified.

665 **SECTION 3.14.**

666 Vacancies in office.

667 (a)(1) The office of mayor or councilmember shall become vacant upon the incumbent's
 668 death, resignation, forfeiture of office, or removal from office in any manner authorized
 669 by this charter or the general laws of the State of Georgia.

670 (2) Upon the suspension from office of mayor or councilmember in any manner
 671 authorized by the general laws of the State of Georgia, the town council or those
 672 remaining shall appoint a successor for the duration of the suspension. If the suspension
 673 becomes permanent, then the office shall become vacant and shall be filled as provided
 674 in subsection (b) of this section.

675 (b) In the event that the office of mayor or councilmember shall become vacant, the town
 676 council or those remaining shall order a special election to fill the balance of the unexpired
 677 term of such official; provided, however, if such vacancy occurs within twelve months of the
 678 expiration of the term of that office, the town council or those members remaining shall
 679 appoint a successor for the remainder of the term. In all other respects, the special election
 680 shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the
 681 "Georgia Election Code," as now or hereafter amended.

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ARTICLE IV
ADMINISTRATIVE AFFAIRS
SECTION 4.10.
Administrative and service departments.

- 686 (a) Except as otherwise provided in this charter, the town council, by ordinance or resolution
687 as appropriate, shall prescribe the functions or duties of and establish, abolish, or alter all
688 nonelective offices, positions of employment, departments, and agencies of the town as
689 necessary for the proper administration of the affairs and government of the town.
- 690 (b) Except as otherwise provided by this charter or general state law or federal law, the
691 directors of departments and other appointed officers of the town shall be appointed solely
692 on the basis of their respective administrative and professional qualifications.
- 693 (c) All appointive officers and directors of departments shall receive such compensation as
694 prescribed by ordinance or resolution, as appropriate.
- 695 (d) There shall be a director of each department or agency who shall be its principal officer.
696 Each director shall, subject to the direction and supervision of the town manager, be
697 responsible for the administration and direction of the affairs and operation of his or her
698 department or agency.

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SECTION 4.11.
Boards, commissions, and authorities.

- 701 (a) The town council shall create by ordinance or resolution as appropriate such boards,
702 commissions, and authorities to fulfill any investigative, quasi-judicial, or quasi-legislative
703 functions as the town council deems necessary and shall by ordinance or resolution as
704 appropriate establish the composition, period of existence, duties, and powers thereof.
- 705 (b) All members of boards, commissions, and authorities of the town shall be appointed by
706 the town council for such terms of office and in such manner as shall be provided by
707 ordinance or resolution as appropriate, except where other appointing authority, term of
708 office, or manner of appointment is prescribed by this charter or general state law.
- 709 (c) The town council, by ordinance or resolution as appropriate, may provide the
710 compensation and reimbursement for actual and necessary expenses of the members of any
711 board, commission, or authority.
- 712 (d) Except as specifically authorized by general law, no member of any board, commission,
713 or authority shall hold any elective office in the town.

714 (e) Any vacancy on a board, commission, or authority of the town shall be filled for the
 715 unexpired term in the manner prescribed herein for original appointment, except as otherwise
 716 provided by this charter, by general law, or by resolution.

717 (f) No member of a board, commission, or authority shall assume office until he or she has
 718 executed and filed with the clerk of the town an oath obligating himself or herself to perform
 719 faithfully and impartially the duties of his or her office, such oath to be prescribed by
 720 ordinance or resolution as appropriate and administered by the mayor.

721 (g) Any member of the board, commission, or authority may be removed from office for any
 722 reason by a majority vote of the town council.

723 (h) Except as otherwise provided by this charter or by general state law, each board,
 724 commission, or authority of the town shall elect one of its members as chairman and one
 725 member as vice-chairman and one member as secretary. Each board, commission, or
 726 authority of the town government may establish such bylaws, rules, and regulations, not
 727 inconsistent with this charter, ordinances of the town, or general state law, as it deems
 728 appropriate and necessary for the fulfillment of its duties or the conduct of its affairs, copies
 729 of which shall be filed with the clerk of the town.

730 **SECTION 4.12.**

731 Town attorney.

732 (a) Appointment; qualifications; term. The town mayor, subject to the approval of the town
 733 council, shall appoint a town attorney who shall be a member of the State Bar of Georgia and
 734 shall have actively practiced law for at least one year. The town attorney shall serve at the
 735 pleasure of the town council.

736 (b) Duties of the town attorney; compensation. It shall be the duty of the town attorney to
 737 serve as legal advisor to the mayor, town council, town manager, and other town officials
 738 with respect to the affairs of the town; to draw proposed ordinances when requested to do so;
 739 to inspect and determine the legality and form of all agreements, contracts, franchises, and
 740 other instruments with which the town may be concerned; to attend meetings of the town
 741 council upon request of the council; and to perform such other duties as may be required by
 742 virtue of the position of town attorney. The compensation of the town attorney shall be set
 743 by the town council.

744 **SECTION 4.13.**

745 Town clerk.

746 The town mayor, subject to approval by the town council, shall appoint an officer who shall
 747 perform the duties of the town clerk and who shall keep a journal of the proceedings of the
 748 town council, maintain a safe place for all records and documents pertaining to the affairs of
 749 the town, and perform such other duties as may be required by law or as mayor and council
 750 may direct, including but not limited to the office of town treasurer.

751 **SECTION 4.14.**

752 Personnel policies.

753 The town council may adopt rules and regulations consistent with this charter concerning:

754 (1) The method of employee selection and probationary periods of employment;

755 (2) The administration of a position classification and pay plan;

756 (3) Hours of work, vacation, sick leave and other leaves of absence, overtime pay,
757 retirement, and the manner in which layoffs shall be effected;758 (4) Institute civil service regulations for employees and as to which personnel decisions
759 of the town manager, mayor, and town council would be subject; and760 (5) Such other personnel policies as may be necessary to provide for adequate and
761 systematic handling of the personnel affairs of the Town of Clermont.

762 Notwithstanding the foregoing, all employees and personnel of the town are at will
 763 employees, unless the town council enters into a written employment contract or creates
 764 by ordinance a personnel system providing for removal of employees only for cause.

765 **SECTION 4.15.**

766 Comprehensive land use plan.

767 A comprehensive land use plan shall be adopted by the town council and official updates to
 768 this plan shall be made as provided by general state law.

769 **ARTICLE V**770 **JUDICIAL BRANCH**771 **SECTION 5.10.**

772 Creation; name.

773 There shall be a court to be known as the Municipal Court of the Town of Clermont.

774

SECTION 5.11.

775

Chief judge; associate judge.

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

778 (b) No person shall be qualified or eligible to serve as a judge on the municipal court unless
779 he or she shall have attained the age of 21 years and is a member of the State Bar of Georgia.

780 The town judge need not be a resident of the Town of Clermont. No other officers of the
781 Town of Clermont may serve as the town judge. All judges shall be appointed by the town
782 council. Upon the effective date of this charter, the present residing town judge may be
783 eligible to continue holding office subject to the approval of the town council.

784 (c) Compensation of the judges shall be fixed by resolution of the council.

785 (d) Judges may be removed for any reason by a majority vote of the town council.

786 (e) Before entering on the duties of his or her office, each judge not presently serving at the
787 time of enactment of the charter shall take an oath given by the mayor that he or she will
788 honestly and faithfully discharge the duties of his or her office to the best of his or her ability
789 without fear, favor, or partiality. The oath shall be similar in form as set out in Section 2.13
790 and shall be entered upon the minutes of the town council.

791

SECTION 5.12.

792

Clerk of municipal court.

793 The town manager shall designate, subject to the approval of the chief judge of the Municipal
794 Court of the Town of Clermont, a municipal employee to serve as the clerk of the municipal
795 court. The clerk of the municipal court shall attend all hearings and be responsible for all
796 records of said municipal court.

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SECTION 5.13.

798

Convening.

799 The municipal court shall be convened at regular intervals as designated by procedure set by
800 the chief judge of the Municipal Court of the Town of Clermont.

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SECTION 5.14.

Jurisdiction; power.

(a) The municipal court shall try and punish violations of all town ordinances and such violations of state law allowed to be tried in municipal court under the general laws of the State of Georgia.

(b) The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$1,000.00 or 180 days in jail or both.

(c) The municipal court may fix punishment for offenses within its jurisdiction not exceeding a fine of \$1,000.00 or imprisonment for 180 days or both or may sentence any offender upon conviction to labor for the town on the streets, sidewalks, squares, or other public places for a period not exceeding 180 days. A fine levied by the municipal court shall not be subject to suspension, stay, or probation except that, if the fine will impose an economic hardship on the defendant, the judge of the municipal court, in his or her sole discretion, may order the defendant to pay such fine in installments or under an order of probation, and such order may be enforced through a contempt proceeding.

(d) The municipal court shall have authority to establish a schedule of fees to defray the cost of operation and shall be entitled to reimbursement of the cost of meals, transportation, and caretaking of prisoners bound over to superior courts for violations of state law. The schedule of fees shall be in addition to any fines imposed, and may include assessments for court costs, probation fees, technology fees, and such other assessments as may be imposed by the municipal court.

(e) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as surety for the appearance of persons charged with violations. Whenever any person shall give bail for his or her appearance and shall fail to appear at the time fixed for trial, his or her bond shall be forfeited by the judge presiding at such time. 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 town, or the property so deposited shall have a lien against it for the value forfeited, which lien shall be enforceable in the same manner and to the same extent as a lien for town property taxes.

(f) The municipal court shall have the authority to bind prisoners over to the appropriate court when it appears by probable cause that state law has been violated and a jury trial is requested.

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

839 (h) The municipal court may compel the presence of all parties necessary to a proper
840 disposal of each case by the issuance of summonses, subpoenas, and warrants which may be
841 served as executed by an officer as authorized by this charter or by general state law. All
842 judges of the municipal court and the clerk of the municipal court are authorized to issue
843 warrants for the arrest of persons charged with offenses against any ordinance of the town
844 or as to violations of state law.

845 (i) The municipal court is specifically vested with all of the jurisdiction and powers
846 throughout the entire area of the town granted by general state laws to mayor's, recorder's,
847 and police courts, and particularly by such laws as that authorize the abatement of nuisances
848 and prosecution of traffic violations.

849 **SECTION 5.15.**

850 Certiorari.

851 The right of certiorari from the decision and judgment of the municipal court shall exist in
852 all cases, and such certiorari shall be obtained under the sanction of a judge of the
853 appropriate court of Hall County under the laws of the State of Georgia regulating the
854 granting and issuance of writs of certiorari.

855 **SECTION 5.16.**

856 Rules for court.

857 With the approval of the town council, the judge shall have the full power and authority to
858 make reasonable rules and regulations necessary to secure the proper administration of the
859 municipal court and to require the prosecution by a prosecuting officer or by a council
860 appointed solicitor; provided, however, that the town council may adopt in part or in toto the
861 rules and regulations for procedure in the superior court under the general laws of the State
862 of Georgia. The rules and regulations made or adopted shall be filed with the town clerk,
863 shall be available for public inspection, and, upon request, a copy shall be furnished to all
864 defendants in municipal court proceedings.

865 **SECTION 5.17.**

866 Probation.

867 The Clermont Municipal Court may establish rules and regulations to allow those convicted
 868 of ordinances or violations of state law to serve their sentence pursuant to such terms of
 869 probation as may be set by the municipal judge. The municipal court may establish or
 870 contract for probation services as determined are necessary for the proper operation of the
 871 court by the municipal judge and as approved by the town council.

872 **ARTICLE VI**873 **FINANCE**874 **SECTION 6.10.**

875 Property tax.

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

882 **SECTION 6.11.**

883 Millage rate; due dates; payment methods.

884 The town council, by ordinance, shall establish a millage rate for the town property tax, a due
 885 date, and in what length of time these taxes must be paid. The town council, by ordinance,
 886 may provide for the payment of these taxes by installments or in one lump sum and may
 887 authorize the voluntary payment of taxes prior to the time when due.

888 **SECTION 6.12.**

889 Occupation and business taxes.

890 The town council, by ordinance, shall have the power to levy such occupation or business
 891 taxes as are not denied by general state law. Such taxes may be levied on both individuals
 892 and corporations who transact business in the town or who practice or offer to practice any
 893 profession or calling therein to the extent such persons have a constitutionally sufficient
 894 nexus to the town to be so taxed. The town council may classify businesses, occupations,

895 professions, or callings for the purpose of such taxation in any way which may be lawful and
896 compel the payment of such taxes as provided in Section 6.18.

897 **SECTION 6.13.**

898 Licenses; permits; fees.

899 The town council, by ordinance, shall have the power to require any individuals or
900 corporations who transact business in the town or who practice or offer to practice any
901 profession or calling therein to obtain a license or permit for such activity from the town and
902 pay a reasonable fee for such license or permit where such activities are not now regulated
903 by general state law in such a way as to preclude town regulation. Such fees, if unpaid, shall
904 be collected as provided in Section 6.18. The town council, by ordinance, may establish
905 reasonable requirements for obtaining or keeping such licenses as the public health, safety,
906 and welfare necessitates.

907 **SECTION 6.14.**

908 Franchises.

909 The town council shall have the power to grant franchises for the use of the town's street and
910 alleys for the purposes of railroads, street railways, telephone companies, electric companies,
911 and other similar organizations. The town council shall determine the duration, provisions,
912 terms, whether the same shall be exclusive or nonexclusive, and the consideration for such
913 franchises. The town council shall have the right to set franchise fees as to state franchises
914 as allowed by the general laws of the State of Georgia.

915 **SECTION 6.15.**

916 Services charges.

917 The town council, by ordinance, shall have the power to assess and collect fees, charges, and
918 tolls for law enforcement, fire, emergency, water, zoning, sewer, sanitary, health services,
919 and any other services rendered within and without the corporate limits of the town, or as to
920 provide the availability of said services, or both. If unpaid, such charges shall be collected
921 as provided in Section 6.18.

922 **SECTION 6.16.**

923 Special assessments.

924 The town council, by ordinance, shall have the power to assess and collect the cost of
 925 constructing, reconstructing, widening, or improving any public way, street, sidewalk,
 926 curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property
 927 owners under such terms and conditions as are reasonable. If unpaid, such charges shall be
 928 collected as provided in Section 6.18.

929 **SECTION 6.17.**

930 Construction; other taxes.

931 The town council shall be empowered to levy any other tax allowed now or hereafter by state
 932 law and the special mention of any right, power, or authority in this article shall not be
 933 construed as limiting in any way the general powers of the town to govern its local affairs.

934 **SECTION 6.18.**

935 Collection of delinquent taxes and fees.

936 The town council, by ordinance, may provide generally for the collection of delinquent taxes,
 937 fees, charges, or other revenue due the town by whatever reasonable means as are not
 938 precluded by general state law, including but not limited to the termination of town services
 939 such as water or sewer, or both. This shall include providing for the dates when the taxes or
 940 fees are due, late penalties or interest, issuance and execution of fi. fas., creation and priority
 941 of liens, making delinquent taxes and fees personal debts of the persons required to pay the
 942 taxes or fees imposed, revoking town licenses for failure to pay any town taxes or fees,
 943 allowing exceptions for hardship, and providing for the assignment or transfer of tax
 944 executions.

945 **SECTION 6.19.**

946 General obligation bonds.

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

951 **SECTION 6.20.**

952 Revenue bonds.

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

956 **SECTION 6.21.**

957 Short-term loans.

958 Any short-term loan obtained by the town must be repaid by December 31 of the year in
 959 which the loan was obtained unless otherwise provided by present or future state law.

960 **SECTION 6.22.**

961 Fiscal year.

962 The town council shall set the fiscal year by resolution. This fiscal year shall constitute the
 963 budget year and the year for financial accounting and reporting of each and every office,
 964 department, agency, and activity of the town government, unless otherwise provided by
 965 general state or federal law.

966 **SECTION 6.23.**

967 Action by town council on budget.

968 (a) The town council shall adopt and may thereafter amend an annual budget, by resolution,
 969 except that the budget as finally adopted and amended must provide for all expenditures
 970 required by state law or by other provisions of this charter and for all debt service
 971 requirements for the ensuing fiscal year and the total appropriations from any fund shall not
 972 exceed the estimated fund balance, reserves, and revenues.

973 (b) The amount set out in the adopted budget for each organizational unit shall constitute the
 974 annual appropriation for such; and no expenditure shall be made or encumbrance created in
 975 excess of the otherwise unencumbered balance of the appropriations or allotment thereof to
 976 which it is chargeable unless by a majority vote of the town council.

977 **SECTION 6.24.**

978 Tax levies.

979 After adoption of the budget, in a timely fashion, the town council shall levy, by ordinance,
 980 such taxes as are necessary. The taxes and tax rates set by such ordinance shall be such that
 981 reasonable estimates of revenues from such levy shall at least be sufficient, together with
 982 other anticipated revenues, fund balances, and applicable reserves, to equal the total amount
 983 appropriated for each of the several funds set forth in the total amount of the operating
 984 budget for defraying the expenses of the general government of the town.

985 **SECTION 6.25.**

986 Changes in appropriations.

987 The town council, by majority vote, may make changes by resolution in the appropriations
 988 contained in the current operating budget at any regular meeting or special or emergency
 989 meeting called for such purpose.

990 **SECTION 6.26.**

991 Independent audit.

992 There shall be an independent audit of all town accounts, funds, and financial transactions
 993 by a certified public accountant selected by the town council as required by general state law.
 994 The audit shall be conducted according to generally accepted auditing standards. Any audit
 995 of any funds by the state or federal governments may be accepted by satisfying the
 996 requirements of this charter. Copies of all audit reports shall be available at printing cost to
 997 the public.

998 **SECTION 6.27.**

999 Contracting procedures.

1000 No contract with the town shall be binding on the town unless:

1001 (1) It is in writing; and

1002 (2) It is made or authorized by the town council and such approval is entered in the town
 1003 council minutes.

1004 **SECTION 6.28.**

1005 Centralized purchasing.

1006 The town council may prescribe procedures for a system of centralized purchasing for the
1007 town.

1008 **SECTION 6.29.**

1009 Sale of town property.

1010 (a) The town council may sell and convey any real or personal property owned or held by
1011 the town for governmental or other purposes as provided by general state law.

1012 (b) The town council may quitclaim any rights it may have in property not needed for public
1013 purposes upon and adoption of a resolution, both finding that the property is not needed for
1014 public or other purposes and that the interest of the town is of no readily ascertainable
1015 monetary value.

1016 (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place
1017 of the town, a small parcel or tract is cut off or separated by such work from a larger tract or
1018 boundary of land owned by the town, the town council may authorize the town manager to
1019 execute and deliver in the name of the town a deed conveying said cut off or separated parcel
1020 or tract of land to an abutting or adjoining property owner or owners in exchange for rights
1021 of way of said street, avenue, alley, or public place or in settlement of any alleged damages
1022 sustained by said abutting or adjoining property owner. All deeds and conveyances
1023 heretofore and hereafter so executed and delivered shall convey all title and interest the town
1024 has in such property, notwithstanding the fact that no public sale after advertisement was or
1025 is hereafter made.

1026 **ARTICLE VII**

1027 **GENERAL PROVISIONS**

1028 **SECTION 7.10.**

1029 Official bonds.

1030 The officers and employees of the town, both elective and appointive, shall execute such
1031 official bonds in such amounts and upon such terms and conditions as the town council shall
1032 from time to time require by ordinance or as may be provided by state law.

1033 **SECTION 7.11.**

1034 Prior ordinances.

1035 All ordinances, bylaws, rules, and regulations now in force in the town not inconsistent with
1036 this charter are declared valid and of full effect and force until amended or repealed by the
1037 town council.

1038 **SECTION 7.12.**

1039 Pending matters.

1040 Except as specifically provided otherwise by this charter, all rights, claims, actions, orders,
1041 contracts, and legal or administrative proceedings shall continue; and any such ongoing work
1042 or cases shall be dealt with by such town agencies, personnel, or offices as may be provided
1043 by the town council.

1044 **SECTION 7.13.**

1045 Effective dates.

1046 Those provisions of Article III of this Act relating to municipal elections in November, 2015,
1047 shall become effective on the Governor's approval or this Act becoming effective without
1048 such approval. The remainder of this Act shall become effective on January 1, 2016.

1049 **SECTION 7.14.**

1050 Repealer.

1051 All laws and parts of laws in conflict with this Act are repealed.