

Draft New Charter V.2

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ARTICLE I. INCORPORATION AND POWERS

Section 1.10. Name.

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

Section 1.11. Corporate boundaries.

(a) The corporate boundaries of the City of Hoschton shall be as described and set forth in Appendix “A” attached hereto.

(b) The City Council may provide for changes in Appendix “A” by ordinance to reflect lawful changes in the corporate boundaries.

Section 1.12. Powers and construction.

(a) The City of Hoschton shall have all powers possible for a city to have under the present or future Constitution and laws of the State of Georgia as fully and completely as though they were specifically enumerated in this charter. The City of Hoschton shall have all the powers of self-government not otherwise prohibited by this charter or by general law.

(b) The powers of the City of Hoschton 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.

Section 1.13. Examples of powers.

The specific corporate powers of the City of Hoschton shall include but are not limited to the following:

(a) 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; also 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;

(b) Appropriations and Expenditures. To make appropriations for the support of the government of the City of Hoschton; to authorize the expenditure of money for any purposes authorized by this charter, and for any purpose for which a municipality is

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authorized by the laws of the State of Georgia; and to provide for the payment of expenses of the city;

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

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

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

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

(g) Emergencies. To establish procedures for determining and proclaiming that an emergency situation exists within or without the City of Hoschton, and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health or well being of the citizens of the city;

(h) Environmental Protection. To protect and preserve the natural resources, environment, and vital areas of the City of Hoschton, the region, and the State through the preservation and improvement of air quality, the restoration and maintenance of water resources, the control of erosion and sedimentation, the management of stormwater and establishment of a stormwater utility, the management of solid and hazardous waste, and other necessary actions for the protection of the environment;

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

(j) Garbage Fees. To levy, fix, assess, and collect a garbage, refuse and trash collection and disposal and other sanitary service charge, tax, or fee for such services as may be necessary in the operation of the City from all individuals, firms, and corporations residing in or doing

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business therein benefitting from such services; to enforce the payment of such charges, taxes or fees, and to provide for the manner and method of collecting such service charges;

(k) General Health, Safety, and Welfare. To define, regulate and prohibit any act, practice, conduct or use of property which is detrimental to health, sanitation, cleanliness, welfare, and safety of the inhabitants of the City of Hoschton and to provide for the enforcement of such standards;

(l) Gifts. To accept or refuse gifts, donations, bequests or grants from any source for any purpose related to the powers and duties of the City of Hoschton and the general welfare of the citizens of the **City of Hoschton**, on such terms and conditions as the donor or grantor may impose insofar as those terms and conditions accord with the Constitution and laws of the State of Georgia and provisions contained in this Charter and where the mayor and City Council formally approve such terms and conditions by majority vote;

(m) Health and Sanitation. To prescribe standards of health and sanitation and to provide for the enforcement of such standards;

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

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

(p) Municipal Agencies and Delegation of Power. To create, alter or abolish departments, boards, offices, commissions and agencies of the City, and to confer upon such agencies the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same;

(q) Municipal Debts. To appropriate and borrow money for the payment of debts of the City of Hoschton and to issue bonds for the purpose of raising revenue to carry out any project, program or venture authorized by this Charter or the laws of the State of Georgia;

(r) Municipal Property Ownership. To acquire, dispose of, and hold in trust or otherwise, any real, personal, or mixed property, in fee simple or lesser interest, inside or outside the property limits of the City of Hoschton;

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- (s) **Municipal Property Protection.** To provide for the preservation and protection of property and equipment of the city and the administration and use of same by the public, and to prescribe penalties and punishment for violations thereof;
- (t) **Municipal Utilities.** To acquire, lease, construct, operate, maintain, sell and dispose of public utilities, including but not limited to a system of water works, sewers and drains, sewage disposal, **stormwater management**, gas works, electric light plants, **cable television and other telecommunications**, transportation facilities, public airports, and any other public utility; **and to fix the taxes, charges, rates, fares, fees, assessments, regulations and penalties and to provide for the withdrawal of service for refusal or failure to pay same and the manner in which such remedies shall be enforced;**
- (u) **Nuisance.** To define a nuisance and provide for its abatement whether on public or private property;
- (v) **Penalties.** To provide penalties for violations of any ordinance adopted pursuant to the authority of this Charter and the laws of the State of Georgia;
- (w) **Planning and Zoning.** To provide comprehensive city planning for development by zoning; **and to provide** subdivision regulation and the like as the city council deems necessary and reasonable to insure a safe, healthy, and aesthetically pleasing community;
- (x) **Police and Fire Protection.** **To exercise the power of arrest through duly appointed police officers, and to establish, operate, or contract for a police and a firefighting agency;**
- (y) **Public Hazards, Removal.** To provide for the destruction and removal of any building or other structure which is or may become dangerous or detrimental to the public;
- (z) **Public Improvements.** **To provide for the acquisition, construction, building, operation and maintenance of public ways, parks and playgrounds, recreational facilities, cemeteries, markets and market houses, public buildings, libraries, public housing, airports, hospitals, terminals, docks, parking facilities, or charitable, cultural, educational, recreational, conservation, sport, curative, corrective, detentional, penal and medical institutions, agencies, and facilities; and to provide any other public improvements, inside or outside, the corporate limits of the City; to regulate the use of public improvements; and for such purposes, property may be acquired by condemnation under Title 22 of the Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter be enacted;**
- (aa) **Public Peace.** **To provide for the prevention and punishment of loitering, disorderly conduct, drunkenness, riots, and public disturbances;**
- (bb) **Public Transportation.** **To organize and operate such public transportation systems as are deemed beneficial;**

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

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

(ee) Retirement. To provide and maintain a retirement plan and other employee benefit plans and programs for officers and employees of the City;

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

(gg) Sewer Fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring, constructing, equipping, operating, maintaining, and extending of a sewage disposal plant and sewerage system, and to levy on those to whom sewers and sewerage systems are made available a sewer service fee, charge or sewer tax for the availability or use of the sewers; to provide for the manner and method of collecting such service charges and for enforcing payment of the same; and to charge, impose and collect a sewer connection fee or fees to those connected with the system;

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

(ii) Special Areas of Public Regulation. To regulate or prohibit junk dealers, the manufacture and sale of intoxicating liquors; to regulate the transportation, storage and use of combustible, explosive and inflammable materials, the use of lighting and heating equipment, and any other business or situation which may be dangerous to persons or property; to regulate and control the conduct of peddlers, and itinerant traders, theatrical performances, exhibitions, and shows of any kind, by taxation or otherwise; to license and

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

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

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

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

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

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

(oo) Other Powers. To exercise and enjoy all other powers, functions, rights, privileges and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the City and its inhabitants; and to exercise all implied powers necessary or desirable to carry into execution all powers granted in this Charter as fully and completely as if such powers were fully stated herein; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia; and no listing of particular powers in this Charter shall be held to be exclusive of others, nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

Section 1.14. Exercise of powers.

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

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ARTICLE II. GOVERNMENT STRUCTURE

Section 2.10. Chief executive officer.

(a) The Mayor shall be the chief executive officer of the City of Hoschton. He or she shall possess all of the executive and administrative powers granted to the City under the Constitution and laws of the State of Georgia, and all the executive and administrative powers contained in this charter, except those executive and administrative powers specifically granted to the City Council or other officers under this charter or under the Constitution and laws of the State of Georgia.

Section 2.11. Election of Mayor; forfeiture; compensation

The Mayor shall be elected and serve for a term of two years and until a successor is elected and qualified. **The Mayor** shall be a qualified elector of the City of Hoschton and shall have been a resident of the City **for three months** preceding his or her election. The Mayor shall continue to reside in the City of Hoschton during the period of his or her service. He or she shall forfeit the office of mayor on the same grounds and under the same procedure as for councilmembers. The compensation of the Mayor shall be established in the same manner as for councilmembers.

Section 2.12. Tie breaker.

The mayor may cast a vote to break a tie on matters before the council; by such vote the mayor waives veto power.

Section 2.13. Powers and duties of Mayor.

As the chief executive of the City of Hoschton, the Mayor shall:

- (a) Preside at all meetings of the City Council but shall not have the power to vote in any business before the City Council except in the election by the City Council of the officers of the City of Hoschton;
- (b) See that all laws and ordinances of the City of Hoschton are faithfully executed;
- (c) With the approval of the City Council appoint and remove all officers, department heads, and employees of the City of Hoschton, except as otherwise provided in this charter;
- (d) Exercise supervision over all executive and administrative work of the City of Hoschton and provide for the coordination of administrative activities, provided that the Mayor may delegate administrative duties to appropriate officers or employees of the City of Hoschton;
- (e) Prepare or cause to be prepared and submit to the City Council a recommended annual operating budget and recommended capital budget;

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(f) Submit to the City Council at least once a year a statement covering the financial conditions of the City of Hoschton and from time to time such other information as the City Council **may** request;

(g) Recommend to the City Council such measures relative to the affairs of the City, improvement of government, and promotion of the welfare of its inhabitants as he or she may deem advisable;

(h) Call special or emergency meetings of the City Council as provided in **Sections 2.25 and 2.30** of this charter;

(i) Approve or disapprove ordinances as provided in Section ~~7~~ **2.14** of this charter;

(j) **Provide for an annual audit** of all accounts of the City of Hoschton;

(k) Require any department or agency of the City to submit written reports whenever **the Mayor** deems it expedient; and

(l) Perform other duties as may be required by general law of the State of Georgia, this charter, or ordinance of the City of Hoschton.

Section 2.14. Submission of ordinances to the Mayor; veto power.

(a) Every ordinance adopted by the City Council shall be presented promptly by the City Clerk to the Mayor.

(b) The Mayor, within ten calendar days of receipt of an ordinance, shall return it to the City Clerk with or without **the Mayor's** approval, or with **the Mayor's** disapproval. If the ordinance has been approved by the mayor, **it shall become law upon its return to the City Clerk. If the ordinance is neither approved nor disapproved,** it shall become law at 12:00 **noon** on the tenth calendar day after its adoption; if the ordinance is disapproved, the mayor shall submit to the City Council **through the City Clerk** a written statement of the reasons for his or her veto. The City Clerk shall record upon the ordinance the date of its delivery to and receipt from the Mayor and the Mayor's disposition of the ordinance.

(c) Ordinances vetoed by the Mayor shall be presented by the City Clerk to the City Council at its next regular meeting, and should the City Council then or at its next regular meeting adopt the ordinance by an affirmative vote of five members, the ordinance shall become law.

(d) **The Mayor may disapprove or reduce any item or items of appropriation in any ordinance. The approved part or parts of any ordinance making appropriations shall become law, and the part or parts disapproved shall not become law unless subsequently passed by the City Council over the Mayor's veto as provided herein. The reduced part or**

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parts shall be presented to City Council as though disapproved and shall not become law unless overridden by the City Council as provided in subsection (c) above.

Section 2.15. Mayor Pro Tem; selection and duties.

The City Council and Mayor shall elect by majority vote from among the members of the City Council a Mayor Pro Tem who shall assume the duties and powers of the Mayor upon the Mayor's **physical or mental disability, suspension from office, or absence**. The City Council **by a majority vote** shall elect a new Mayor Pro Tem from among its members for any period in which the Mayor Pro Tem is disabled, absent or acting as Mayor. Any such absence or disability shall be declared by majority vote of all councilmembers. **When serving as Mayor, the Mayor Pro Tem shall not also vote as a member of the City Council.**

Section 2.16. City Council creation; number; election.

The legislative authority of the government of the City of Hoschton, except as otherwise specifically provided in this charter, shall be vested in a City Council to be composed of six councilmembers. **The City Council established shall in all respects be a successor to and continuation of the governing authority under prior law.** The councilmembers shall be elected in the manner provided by **general law and** this charter.

Section 2.17. City Council terms and qualification for office.

The members of the City Council of the City of Hoschton shall serve for terms of four years and until their respective successors are elected and qualified. No person shall be eligible to serve as councilmember unless he or she shall have been a resident of the City of Hoschton **for 12 months** prior to the date of the election of members of the City Council, **and each shall continue to reside therein during that member's period of service** and each shall be registered and qualified to vote in municipal elections of the City of Hoschton.

Section 2.18. Compensation and expenses.

(a) The Mayor and councilmembers shall receive compensation for their services in an amount set by ordinance and as provided by the laws of the State of Georgia. The Mayor and councilmembers shall be entitled to receive their actual and necessary expenses incurred in the performance of their duties of office. During the period beginning with the effective date of this charter through taking office of new councilmembers in 2009, salaries shall be the same as those existing in the year immediately preceding the date of adoption of this charter.

(b) Any action to increase the compensation of the Mayor and/or councilmembers shall not be effective until after the taking office of those elected at the next regular municipal election which is held following the date on which the action to increase such compensation was taken.

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(c) Such action shall not be taken during the period of time beginning with the date that candidates for election to membership on the City Council may first qualify as such candidates and ending with the date members of the City Council take office following their election.

(d) Such action shall not be taken until notice of intent to do so has been published in a newspaper of general circulation **designated as the legal organ in the county and** in the City of Hoschton at least once a week for three consecutive weeks immediately preceding the week during which such action is taken.

(e) Notice of such action must also appear in a prominent place in the Clerk's office continuously during the three week period provided for in subsection (d) of this section, and a copy of the proposal must be available for inspection by the public.

Section 2.19. Vacancy; filling of vacancies.

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

(b) **Filling of Vacancies** - A vacancy in the office of Mayor or councilmember shall be filled for the remainder of the unexpired term, if any, **by appointment by the City Council or those members remaining if less than four months remains in the unexpired term. If such vacancy occurs four months or more prior to the expiration of the term of that office, it shall be filled for the remainder of the unexpired term by a special election, as provided for in Section 5.12 of this charter and in accordance with Titles 21 and 45 of the Official Code of Georgia Annotated, or such other laws as are or may hereafter be enacted.**

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

Section 2.20. Prohibitions.

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

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

(1) Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of **that person's** official duties or

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which would tend to impair **the** independence of **the official's** judgment or action in the performance of **those** official duties;

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

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

(4) Accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm or corporation which he or she knows is interested directly or indirectly in any manner whatsoever in business dealings with the City of Hoschton; provided, however, that an elected official who is a candidate for public office may accept campaign contributions and services in connection with any such campaign insofar as permitted by the laws of the State of Georgia and other provisions of this charter;

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

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

(c) Disclosure. Any elected official, appointed officer, or employee who shall have any financial interest, directly or indirectly, in any contract or matter pending before or within any department of the City of Hoschton shall disclose such interest to the City Council of the City of Hoschton. The Mayor or any councilmember who has a **financial** interest in any matter pending before the City Council of Hoschton shall disclose such interest and such disclosure shall be entered on the records of the City Council and that councilmember shall be disqualified from participating in any decision or vote relating to that interest. Any elected official, appointed officer, or employee of any agency or political entity to which this charter applies who shall have **any** financial interest, directly or indirectly, in any contact or matter pending before or within the entity shall disclose that interest to the governing body of the agency or entity.

(d) Use of public property. No elected official, appointed officer, or employee of the City of Hoschton, or any agency or entity to which this charter applies shall use property owned by the City of Hoschton for personal benefit, convenience, or profit **but shall use such property only in their capacity as an officer or employee of the City.**

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(e) Contracts voidable and rescindable. Any violation of this section which occurs with the knowledge, express or implied, of another party to a contract or sale shall render that contract or sale voidable as to that party at the option of the City Council of the City of Hoschton.

(f) Ineligibility of elected officials. Except where authorized by law, neither the Mayor nor any councilmember shall hold any other elective or compensated appointive office in the City of Hoschton or otherwise be employed by said government or any agency thereof during the term for which that **official** was elected. No former mayor and no former councilmember shall hold any compensated appointive office in the City of Hoschton until one year after the expiration of the term for which that individual was elected except as provided by the Constitution and laws of the State of Georgia or elsewhere in this charter.

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

(h) Penalties for violation.

(1) Any officer of the City of Hoschton **or employee** who knowingly conceals such financial interest or knowingly violates any of the requirements of this section shall be guilty of malfeasance in office or position and upon conviction therefore shall be deemed to have forfeited the office or position.

(2) Any officer or employee of the City of Hoschton who shall forfeit his or her office or position as described in subsection (1) above shall be ineligible for appointment or election to or employment in a position in the government of the City of Hoschton for a period of three years thereafter.

Section 2.21. Inquiries and investigations.

Following the adoption of an authorizing resolution, the City Council of the City of Hoschton may make inquiries and investigations into the affairs of the City of Hoschton and the conduct of any department, office, or agency thereof and for this purpose may command the appearance of witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails **or refuses** to obey a lawful order issued in the exercise of these powers by the City Council shall be punished as provided by ordinance.

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Section 2.22. General power and authority of the City Council.

The legislative authority of the government of the City of Hoschton, except as otherwise specifically provided in this charter, shall be vested in a City Council to be composed of six councilmembers. The councilmembers shall be elected in the manner provided by this charter.

Section 2.23. Eminent domain.

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

Section 2.24. Organizational meeting.

The City Council of Hoschton shall meet for organization on the first regularly scheduled meeting after the annual election. The meeting shall be called to order by the City Clerk and the oath of office shall be administered to the newly elected members **by a judicial officer authorized to administer oaths and shall, to the extent that it comports with federal and state law, be as follows:**

I do solemnly swear that I will faithfully perform the duties of Mayor / Councilmember of this City and that I will support and defend the charter thereof as well as the Constitution and laws of the State of Georgia and of the United States of America. “I am not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof. I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I by the laws of the State of Georgia am prohibited from holding. I am otherwise qualified to hold said office according to the Constitution and laws of Georgia. I have been a resident of the City of Hoschton for the time required by the Constitution and laws of this state and by the municipal charter. I will perform the duties of my office in the best interest of the City of Hoschton to the best of my ability without fear, favor, affection, reward, or expectation thereof.

Section 2.25. Regular and special meetings.

(a) The City Council of the City of Hoschton at its organizational meeting shall set the dates, place and times of regular meetings for the coming year through the next annual organizational meeting. These meeting dates may be postponed after reasonable public notice as provided by ordinance.

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(b) Special meetings of the City Council of the City of Hoschton may be held on call of the Mayor or any member of the City Council. Notice of such special meetings shall be served on all other members personally or by telephone personally, at least forty-eight hours in advance of the meeting. Such notice to councilmembers shall not be required if the mayor and all councilmembers are present when the special meeting is called. Such notice of any special meeting may be waived by a councilmember in writing before or after such a meeting, **and attendance at the meeting shall also constitute a waiver of notice on any business transacted in such councilmember's presence.** Only the business stated in the call may be transacted at the special meeting.

(c) All meetings of the City Council shall be public to the extent required by law and notice to the public of special meetings shall be made as fully as is reasonably possible as provided by Section 50-14-1 of the Official Code of Georgia Annotated, or other such applicable laws as are or may hereafter be enacted.

Section 2.26. Rules of procedure.

(a) The City Council of the City of Hoschton shall adopt its rules of procedure and order of business consistent with the provisions of this charter and shall provide for keeping a journal of its proceedings, which shall be a public record retained in the office of the Clerk of the City of Hoschton.

(b) All committees and committee chairs and officers of the City Council shall be appointed as hereafter provided by ordinance.

Section 2.27. Quorum; voting.

(a) A majority of the councilmembers shall constitute a quorum and shall be authorized to transact business of the City Council. Voting on the adoption of ordinances shall be taken by a roll call vote, a show of hands, or by recorded vote at the option of the mayor or any councilmember, **and such vote shall be recorded in the journal.** The affirmative vote of four of councilmembers shall be required for the adoption of any ordinance, resolution, or motion except as otherwise provided in this Charter.

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

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Section 2.28. Ordinance form; procedure.

(a) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain a subject which is not expressed in its title. The enacting clause shall be “The Council of the City of Hoschton hereby ordains . . . ,” and every ordinance shall so begin.

(b) An ordinance may be introduced by any member of the council and be read at a regular or special meeting of the City Council. This reading may be accomplished by the reading of the caption. Ordinances shall be considered and adopted or rejected by the City Council in accordance with the rules which it shall establish; except for emergency ordinances provided in Section 2.30. Either the Mayor or any council member or council members may request that consideration of any proposed ordinance be delayed until the next regularly scheduled meeting of the governing authority. Said request need not be accompanied by any explanation or reason and shall automatically be delayed until the next regularly scheduling meeting of the governing authority without the necessity of said delay being approved or voted on by the governing authority. The delay of said consideration shall not be further postponed except by vote of the governing authority. If any of the mayor or council members are absent, or if any changes (other than correction of clerical errors) are proposed, an ordinance may not be adopted on the same day it is first introduced except for emergency ordinances provided in Section 2.30. Upon introduction of any ordinance, the clerk shall, as soon as reasonable, distribute a copy to the Mayor and to each council member and shall file a reasonable number of copies in the office of the clerk and at such other public places as the City Council may designate.

Section 2.29. Action requiring an ordinance.

Acts of the City Council which have the force and effect of law shall be enacted by ordinance.

Section 2.30. Emergencies.

(a) To meet a public emergency affecting life, health property or public peace, the City Council of Hoschton may convene on call of the mayor or any councilmember and promptly adopt an emergency ordinance, but such ordinance may not levy taxes; grant, renew or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money except for loans to be repaid within thirty days. An emergency ordinance shall be introduced in the form prescribed for ordinances generally except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing **the emergency** in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least four councilmembers shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed thirty days following the date

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upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

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

Section 2.31. Codes of technical regulations.

(a) The City Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such adopting ordinance shall be as prescribed for ordinances generally except that: (1) the requirements of Section 2.28 for distribution and filing of copies of the ordinance shall be construed to include copies of any code of technical regulations, as well as the adopting ordinance; and (2) a copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the City Clerk pursuant to Section 2.32.

(b) Copies of any adopted code of technical regulations shall be made available by the City Clerk for inspection by the public.

Section 2.32. Signing; authenticating; recording; codification; printing.

(a) The Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for that purpose all ordinances adopted by the City Council of the City of Hoschton.

(b) The City Council shall provide for the preparation of a general codification of all the ordinances of the City of Hoschton having the force and effect of law. The general codification shall be adopted by the City Council by ordinance and shall be published promptly together with all amendments thereto and such codes of technical regulations and other rules and regulations as the City Council may specify. This compilation shall be known and cited officially as the "Code of the City of Hoschton, Georgia." A copy of the code shall be furnished to each officer, department and agency of the City of Hoschton and made available for purchase by the public at a reasonable price as fixed by the City Council.

(c) The City Council of Hoschton shall cause each ordinance and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances and charter amendments shall be made available for purchase by the public at reasonable prices to be fixed by the City Council. Following publication of the first code under this charter and at all times thereafter, the ordinances and charter amendments shall be printed in substantially

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the same style as the code currently in effect and shall be suitable in form for incorporation therein. The City Council shall make such further arrangements as deemed desirable with reproduction and distribution of any current changes in or additions to codes of technical regulations and other rules and regulations included in the code.

ARTICLE III. ADMINISTRATIVE AFFAIRS

Section 3.10. Administrative and service departments.

(a) Except as otherwise provided in this charter, the City Council, by ordinance, shall prescribe the functions or duties, and establish, abolish, alter, consolidate or leave vacant all non-elective offices, positions or employment, departments, and agencies of the City, as necessary for the proper administration of the affairs and government of the City of Hoschton.

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

(c) All appointive officers and directors of departments shall receive such compensation as prescribed by ordinance or resolution.

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

(e) All appointive officers and directors under the supervision of the Mayor shall be nominated by the Mayor with confirmation of appointment by the City Council. All appointive officers and directors shall be employees at-will and subject to removal or suspension at any time by the Mayor unless otherwise provided by law or ordinance.

(f) The City Council shall prepare a personnel ordinance to apply to all non-elective officers and employees of the City of Hoschton.

Section 3.11. Boards, commissions and authorities.

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

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(b) All members of such boards, commissions, or authorities of the City of Hoschton shall be appointed by the City Council for such terms of office and in such manner as shall be provided by ordinance, **except where other appointing authority, terms of office, or manner of appointment is prescribed by this charter or by laws.**

(c) The City Council may provide by ordinance for the compensation and reimbursement for actual and necessary expenses of members of boards, commissions and authorities.

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

(e) Any vacancy on a board, commission or authority **of the City of Hoschton** shall be filled for the unexpired term in the manner prescribed herein for original appointment, except as otherwise provided by this charter or general law of the State of Georgia.

(f) No member of a board, commission or authority shall assume office until that person has executed and filed with the Clerk of the city an oath obligating himself to faithfully and impartially perform the duties of that member's office, such oath to be prescribed by ordinance and administered by the Mayor.

(g) **The members of all boards, commissions or authorities may be removed at any time by a vote of five members of the City Council, unless otherwise provided by law.**

(h) Except as otherwise provided by this charter or **by law**, each board, commission or authority of the City of Hoschton shall elect one of its members as chair, one member as vice-chair, and may elect as secretary one of its own members or may appoint as secretary an employee of the City. Each board, commission or authority of the City **government** may establish **such bylaws, rules and regulations** not inconsistent with this charter, **ordinances of the city, or law**, as it deems appropriate and necessary for fulfillment of its duties or conduct of its affairs. Copies of such **bylaws, rules, and regulations** and a list of such officers shall be filed with the City Clerk.

Section 3.12. City Attorney.

The City Council **shall** appoint a city attorney and such assistant attorneys as necessary and shall provide for payment for services rendered to the City by such attorney or attorneys. The city attorney shall be responsible for representing and defending the City in all litigation in which the City is a party; may be prosecuting officer in the Municipal Court; shall attend meetings of the City Council as directed; shall advise the Mayor, City Council, and other officers and employees of the City concerning the City's legal affairs; and shall perform such other duties as specified by the City Council. **The city attorney is not a public official of the city and does not take an oath of office. The city attorney shall at all times be an independent contractor. A law firm, rather than an individual, may be designated as the city attorney.**

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Section 3.13. City Clerk.

The City Council shall appoint a City Clerk who shall not be a councilmember. The City Clerk shall be custodian of the official city seal and city records; maintain City Council records required by this charter; and perform such other duties as may be required by the City Council.

Section 3.14. Position Classification and Pay Plans.

The Mayor shall be responsible for the preparation of a position classification and pay plan which shall be submitted to the City Council for approval. Such plan may apply to all employees of the City and any of its agencies, departments, boards, commissions or authorities. When a pay plan has been adopted, the City Council shall not increase or decrease the salary range applicable to any position except by amendment of such pay plan. For purposes of this section, all elected and appointed city officials are not city employees.

Section 3.15. Personnel Policies.

All employees serve at-will and may be removed from office at any time unless otherwise provided by ordinance.

ARTICLE IV. JUDICIAL BRANCH

Section 4.10. Creation of Municipal Court.

There shall be a court to be known as the Municipal Court of the City of Hoschton.

Section 4.11. Judges.

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

(b) No person shall be qualified or eligible to serve as a judge on the Municipal Court unless he or she shall have attained the age of 21 years, shall be a member of the State Bar of Georgia and shall possess all qualifications required by law. All judges shall be appointed by the City Council and shall serve until a successor is appointed and qualified. The City Council may require additional qualifications by ordinance at its discretion and in accordance with the general laws and Constitution of the State of Georgia.

(c) Compensation of any judge or judges shall be fixed by ordinance.

(d) Judges serve at-will and may be removed from office at any time by a vote of five members of the City Council, unless otherwise provided by ordinance.

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(e) Before entering on the duties of the office, each judge shall take an oath given by the Mayor that **the judge** will honestly and faithfully discharge the duties of the office to the best of his or her ability without fear, favor, or partiality. The oath shall be entered upon the minutes of the City Council journal required **in Section 2.26**.

Section 4.12. Convening.

The Municipal Court shall be convened at regular intervals as provided by ordinance.

Section 4.13. Jurisdiction; powers.

(a) The Municipal Court shall have jurisdiction and authority to try and punish violations of this charter, all city ordinances and such other violations as provided by law.

(b) The Municipal Court shall have authority to punish those in its presence for contempt or malicious prosecution as for a misdemeanor, **provided that such punishment shall not exceed two hundred dollars (\$200.00) or ten (10) days in jail.**

(c) The Municipal Court may fix punishment for offenses within its jurisdiction **not exceeding a fine of one thousand dollars (\$1,000.00) or imprisonment for 180 days or both such fine and imprisonment, or alternative sentencing as now, or hereafter provided by law.**

(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 care taking of prisoners bound over to superior courts for violations of laws of the State of Georgia.

(e) The Municipal Court shall have authority to establish bail and recognizance to insure the presence of those charged with violations before the 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 an appearance and shall fail to appear at the time fixed for trial; the bond shall be forfeited by 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 (2) 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 declared forfeited to the City on order of the judge, or the property so deposited shall have a lien against it for the value forfeited, which lien shall be enforceable in the same manner and to the same extent as a lien for City property taxes.

(f) The Municipal Court shall have the authority to bind prisoners over to the appropriate court when there appears to be probable cause that a law of the State of Georgia has been violated.

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

(h) The Municipal Court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summons, subpoena, and warrants which may be served as executed by any officer **as authorized by this charter or by law**.

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

(j) The Municipal Court is specifically vested with all of the jurisdiction and powers throughout the entire area of this City granted by general State laws to mayor's, recorder's, and police courts, and in particular by such laws as authorize the abatement of nuisances and prosecution of traffic violations.

Section 4.14. Certiorari.

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

Section 4.15. Appeal.

Appeals from decisions of the Municipal Court shall be taken to the State Court of Jackson County in the manner provided for appeals from the Court of probate. The right of appeal and any bond as may be required to secure the costs of appeal to the Superior Court of Jackson County from the Municipal Court shall lie in the same manner and under the same procedure as generally prescribed for appeals and appeal bonds from the probate court. Provided that any person who fails to file his or her appeal within ten days of the date of conviction shall be deemed to have waived any such right. An appeal to the superior court shall be a de novo proceeding.

Section 4.16. Rules for court.

With the approval of the City Council, the judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the Municipal Court; provided, however, that the City Council may adopt in part or in whole the rules and regulations for procedure in the superior court under the general laws of the State of Georgia. The rules and regulations made or adopted shall be filed with the City Clerk, shall be available for public inspection, **and upon request, a copy shall be**

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furnished to all defendants in Municipal Court proceedings at least 48 hours prior to said proceedings.

ARTICLE V. ELECTIONS AND REMOVAL

Section 5.10. Applicability of General Law.

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

Section 5.11. Regular Elections; time for holding.

On the Tuesday next following the first Monday in November in each odd numbered year beginning on November **2009**, there shall be an election for mayor and city council members' positions where those terms are about to expire. The terms of office shall begin at the time of taking the oath of office as provided elsewhere in this charter. **Terms shall be for ~~two~~ four years.**

Section 5.12. Special elections; vacancies.

In the event that the office of Mayor or councilmember shall become vacant **as provided in Section 2.19 of this charter**, the City Council or those remaining shall order a special election to fill the balance of the unexpired term of such office; provided, however, that if such vacancy occurs within four months of the expiration of the term of that office, the City Council or those remaining shall appoint a successor for the remainder of the term. In all other respects, the special election shall be held and conducted in accordance with **Georgia Election Code, Chapter 2 of Title 21 of the Official Code of Georgia Annotated, as now or hereafter amended.**

Section 5.13. Other provisions.

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

Section 5.14. Non-Partisan Elections.

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

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Section 5.15. Election by plurality.

The person receiving a plurality of the votes cast for any city office shall be elected.

Section 5.16. Procedure for removal.

Removal of the Mayor or councilmembers or other officers provided for in this charter may be accomplished by one of the following methods:

(a) By the vote of five councilmembers after an investigative hearing. In the event an elected officer is sought to be removed by the action of the City Council, such officer shall be entitled to a written notice specifying the ground for removal and to a public hearing which shall be held not less than ten days after the service of such written notice. The City Council shall provide by ordinance for the manner in which such hearings shall be held. Any elected officer sought to be removed from office as herein provided shall have the right of appeal from the decision of the City Council to the Superior Court of Jackson County. Such appeal shall be governed by the same rules as govern appeals to the Superior Court from the Municipal Court.

(b) By an order of the Superior Court of Jackson County following a hearing on a complaint seeking such removal brought by any resident of the City of Hoschton.

ARTICLE VI. FINANCE.

Section 6.10. Property tax.

The City Council of the City of Hoschton may assess, levy and collect an ad valorem tax on all real and personal property within the corporate limits of the City that is subject to such taxation by the State of Georgia and Jackson County. This tax is for the purpose of raising revenues to defray the costs of operating the City government; providing governmental services; for the repayment of principal and interest on general obligations; and for any other public purpose as determined by the City Council of the City of Hoschton at its discretion.

Section 6.11. Millage rate, due dates, payment methods.

The City Council by ordinance shall establish a millage rate for the City property tax; a due date; and in what length of time these taxes must be paid. The City Council by ordinance may provide for the payment of these taxes by installments or in one lump sum as well as authorize the voluntary payment of taxes prior to the time when due.

Section 6.12. Occupation and business taxes.

The City Council by ordinance shall have the power to levy occupation or business taxes not denied by the general law of the State of Georgia. Such taxes may be levied on both individuals

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and corporations who transact business in the City or who practice or offer to practice any profession or calling therein to the extent such persons have a constitutionally sufficient nexus to the City of Hoschton to be so taxed. The City Council may classify businesses, occupations, professions, or callings for the purpose of such taxes as provided elsewhere in this charter.

Section 6.13. Licenses, permits, fees.

The City Council by ordinance shall have the power to require any individuals or corporations who transact business in the City of Hoschton or who practice or offer to practice any profession or calling in the City to obtain a license or permit for such activity from the City and pay a reasonable **regulatory** fee for such license or permit where such activities are not now regulated by the general law of the State of Georgia in such a way as to preclude City regulation. Such fees may reflect the total cost to the City of regulating the activity and if unpaid shall be collected as provided in **Section 6.18**. The City Council by ordinance may establish reasonable requirements for obtaining or keeping such licenses as the public health, safety, and welfare necessitates.

Section 6.14. Franchises.

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

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

Section 6.15. Service charges.

The City Council by ordinance shall have the power to assess and collect fees, charges, **assessments**, and tolls for sewer, sanitary, health services, or any other services rendered within and without the corporate limits of the City of Hoschton for the total cost to the City of providing such services. If unpaid, such charges shall be collected as provided in **Section 6.18**.

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Section 6.16. Special Assessments.

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

Section 6.17. Construction; Other Taxes and Fees.

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

Section 6.18. Collection of delinquent taxes and fees.

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

Section 6.19. General obligation bonds.

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

Section 6.20. Revenue bonds.

Revenue bonds may be issued by the City Council as the present or future law of the State of Georgia provides. Such bonds are to be paid out of any revenue produced by the project or activity **by the project, program, or venture** for which they were issued.

Section 6.21. Short term loans.

The City of Hoschton must obtain and repay any short-term loans between January 1 and December 31 of each year or as is otherwise provided by present or future law.

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Section 6.22. Lease-Purchase Contracts.

The City of Hoschton may enter into multi-year lease, purchase or lease purchase contracts for the acquisition of goods, materials, real and personal property, services and supplies provided the contract terminates without further obligation on the part of the municipality at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed. Contracts must be executed in accordance with the requirements of Section 36-60-13 of the Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter be enacted.

Section 6.23. Fiscal year.

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

Section 6.24. Preparation of budgets.

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

Section 6.25. Submission of operating budget to City Council.

On or before a date fixed by the City Council but not later than 45 days prior to the beginning of each fiscal year, the Mayor shall submit to the City Council a proposed operating budget for the ensuing fiscal year. The budget shall be accompanied by a message from the Mayor containing a statement of the general fiscal policies of the City, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget, and such other pertinent comments and information. The operating budget and the capital budget hereinafter provided for, the budget message, and all supporting documents shall be filed in the office of the City Clerk and shall be open to public inspection.

Section 6.26. Action by City Council on budget.

(a) The City Council may amend the operating budget except that the budget as finally amended and adopted must provide for all expenditures required by the law of the State of Georgia or by provisions of this charter and for all debt service requirements for the ensuing fiscal year and the total appropriations from any fund shall not exceed the estimated fund balance, reserves and revenues.

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(b) The City Council by ordinance shall adopt the final operating budget for the ensuing fiscal year not later than the last day of each fiscal year. If the City Council fails to adopt the budget by this date, the amounts appropriated for operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly until such time as the City Council adopts a budget for the ensuing fiscal year. Such adoption shall take the form of an appropriations ordinance setting out the estimated revenues in detail by sources and making appropriations according to fund and by organizational unit, purpose or activity as set out in the budget preparation ordinance **pursuant to Section 6.25.**

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

Section 6.27. Tax levies.

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

Section 6.28. Changes in appropriations.

The City Council by ordinance may make changes in the appropriations contained in the current operating budget, at any regular meeting, special or emergency meeting called for the purpose, but any additional appropriations may be made only from an existing unappropriated surplus in the fund to which it applies or on a revised estimate of revenue.

Section 6.29. Capital improvements budget.

(a) On or before the date fixed by the City Council but no later than 45 days prior to the beginning of each fiscal year, the Mayor shall submit to the City Council a proposed capital improvements plan with a recommended capital budget containing the means of financing the improvements proposed for the ensuing fiscal year. The City Council shall have power to accept, with or without amendments, or reject the proposed plan and proposed budget. The City Council shall not authorize an expenditure for the construction of any building, structure, work or improvement, unless the appropriations for such project are included in the capital budget, except to meet a public emergency as provided in Section 2.30.

(b) The City Council shall adopt by ordinance the final capital budget for the ensuing fiscal year not later than the last day of each fiscal year. No appropriation provided for in a prior

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capital budget shall lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned; provided, however, the Mayor may submit amendments to the capital budget at any time during the fiscal year, accompanied by recommendations. Any such amendments to the capital budget shall become effective only upon adoption by ordinance.

Section 6.30. Independent Audit.

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 **auditing** principles. Any audit of any funds by the State or federal governments may be accepted as satisfying the requirements of this Charter. Copies of all **annual** audit reports shall be available at printing cost to the public.

Section 6.31. Contracting procedures.

No contract with the City of Hoschton shall be binding upon the City unless:

(a) It is in writing;

(b) It is drawn by or submitted to and reviewed by the City Attorney and as a matter of course is signed by him or her to indicate such drafting or review; and

(c) If it involves the expenditure of more than \$2,500.00, it is made or authorized by the City Council and such approval is entered in the City Council journal of minutes **pursuant to Section 2.27.**

(d) It is signed by the Mayor and attested to by the City Clerk.

Section 6.32. Centralized purchasing.

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

Section 6.33. Sale and lease of City property.

(a) The City Council may sell and convey, **or lease** any real or personal property owned or held by the City for governmental or any other purposes as **now or hereafter provided by law.**

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

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

ARTICLE VII. GENERAL PROVISIONS.

Section 7.10. Bonds for Officials.

The officers and employees of the City of Hoschton, both elective and appointive, shall execute such surety or fidelity bonds in such amounts and upon such terms and conditions as the City Council shall from time to time require by ordinance or as may be provided by law.

Section 7.11. Land Development Code.

The City Council of Hoschton may adopt regulations related to land use and development.

Section 7.12. Prior Ordinances.

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

Section 7.13. Existing personnel and officers.

Except as specifically provided otherwise by this charter, all personnel and officers of the City of Hoschton and their rights, privileges and powers shall continue beyond the time this charter takes effect and until the existing City Council passes a transition ordinance detailing the changes in personnel and appointive officers required or desired and arranging such titles, rights, privileges and powers as may be required or desired to allow a reasonable transition, which ordinance the City Council shall pass as soon as practicable after adoption of this charter into law.

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Section 7.14. Pending matters.

Except as specifically provided otherwise by this charter, all rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue, and any ongoing work or cases shall be dealt with by any City agencies, personnel or office as may be provided by the City Council.

Section 7.15. Construction.

(a) Section captions in this charter are informative only and are not to be considered as a part of the charter.

(b) The word “shall” is intended to be mandatory, and the word “may” is **permissive**.

(c) The singular shall include the plural and the masculine the feminine and vice versa.

Section 7.16. Penalties.

The violation of any provisions of this charter, for which penalty is not specifically provided for herein or by applicable laws of the State of Georgia, is hereby declared to be a misdemeanor and shall be punishable by a fine of not more than \$1000 or by imprisonment not to exceed 30 days.

Section 7.17. Severability.

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

Section 7.18. Repealer.

(a) An Act incorporating the City of Hoschton, in the County of Jackson, approved August 19, 1919 (Ga. L. 1919, p. 1028), is hereby repealed in its entirety, and all amendatory acts thereto are likewise repealed in their entirety. All Acts of the General Assembly heretofore passed incorporating the City of Hoschton are hereby consolidated and superceded by this Act. All local Acts of the General Assembly in conflict with or at variance with this Act are hereby expressly repealed, and all local laws or parts of local laws in conflict with this Act are hereby repealed.

(b) All ordinances passed by the Mayor and Council of the City of Hoschton under a former charter or any amendment thereof which are now in force and which are in conflict with this Act are expressly repealed, but all ordinances now in force which are not in conflict with this Act are

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continued as ordinances of the City of Hoschton, in full force and effect until the same have been repealed by ordinance or resolution of the Mayor and Council, as provided elsewhere in this charter.

(c) All laws and parts of laws in conflict with this Act are hereby repealed.

Section 7.19. Effective Date.

This charter shall become effective on _____.